



2016/0280(COD)

5.4.2017

AMENDMENTS

69 - 303

Draft opinion
Catherine Stihler
(PE599.682v01-00)

Copyright in the Digital Single Market

Proposal for a directive
(COM(2016)0593 – C8-0383/2016 – 2016/0280(COD))

Amendment 69
Marcus Pretzell

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) The Treaty provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Harmonisation of the laws of the Member States on copyright and related rights *should contribute further* to the *achievement of those objectives*.

Amendment

(1) The Treaty provides for the establishment of an internal market and the institution of a system ensuring that competition in the internal market is not distorted. Harmonisation of the laws of the Member States on copyright and related rights *would in no way contribute* to the *development of a free digital single market, because uniform regulation stifles, rather than encouraging, market activity. Indeed, competition between differing national systems of laws is a guarantee that legal errors have only limited impact and that more effective systems of laws have a beneficial influence on less effective ones*.

Or. de

Amendment 70
Julia Reda

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. *This* harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The *protection provided by this* legal framework also contributes to the

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. A harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The legal framework also contributes to the Union's objective of

Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 71
Antanas Guoga

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Amendment

(2) The directives which have been adopted in the area of copyright and related rights provide for a high level of protection for rightholders and create a framework wherein the exploitation of works and other protected subject-matter can take place. This harmonised legal framework contributes to the good functioning of the ***truly integrated*** internal market; it stimulates innovation, creativity, investment and production of new content, also in the digital environment. The protection provided by this legal framework also contributes to the Union's objective of respecting and promoting cultural diversity while at the same time bringing the European common cultural heritage to the fore. Article 167(4) of the Treaty on the Functioning of the European Union requires the Union to take cultural aspects into account in its action.

Or. en

Amendment 72
Julia Reda

Proposal for a directive
Recital 3

PE602.819v01-00

4/169

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(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules ***on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and*** on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 73

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 3

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules ***on rights in publications***, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited, ***and relevant legislation must be future proof so as to not restrict technological development***. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. en

Amendment 74
Pascal Arimont, Herbert Reul

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers **storing and** giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. This Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers **broadcasting and/or** giving access to user uploaded content and on the transparency of authors' and performers' contracts.

²⁶ COM(2015) 626 final.

Or. de

Amendment 75

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. ***This*** Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and ***performers'*** contracts.

Amendment

(3) Rapid technological developments continue to transform the way works and other subject-matter are created, produced, distributed and exploited. New business models and new actors continue to emerge. The objectives and the principles laid down by the Union copyright framework remain sound. However, legal uncertainty remains, for both rightholders and users, as regards certain uses, including cross-border uses, of works and other subject-matter in the digital environment. As set out in the Communication of the Commission entitled ‘Towards a modern, more European copyright framework’²⁶, in some areas it is necessary to adapt and supplement the current Union copyright framework. ***In this ever-evolving and mutating digital environment, the Commission has to diligently investigate all possible measures to prevent every kind of illegal use of copyright protected visual and audiovisual contents, aiming at commercial purposes, through abusing embedding or framing techniques. In addition,*** this Directive provides for rules to adapt certain exceptions and limitations to digital and cross-border environments, as well as measures to facilitate certain licensing practices as regards the dissemination of out-of-commerce works and the online availability of audiovisual works on video-on-demand platforms with a view to ensuring wider access to content. In order to achieve a well-functioning ***and fair*** marketplace for copyright, there should also be rules on rights in publications, on the use of works and other subject-matter by online service providers storing and giving access to user uploaded content and on the transparency of authors' and ***performers' contracts and of the accounting deriving from the exploitation of protected works according to those*** contracts.

Or. en

Amendment 76

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3 a) Despite the fact that more creative content is being consumed today than ever before, on services such as user-uploaded content platforms and content aggregation services, the creative sectors have not seen a comparable increase in revenues from this increase in consumption. The value of cultural and creative works has been diverted away from the users, authors, artists, producers and other rights holders generating an unsustainable "value gap". This transfer of value is creating an inefficient and unfair market, and threatens the long-term health of the EU's cultural and creative sectors and the success of the Digital Single Market, as far as there will be no successful European digital market without contents. This is why, amongst other, liability exemptions can only apply to genuinely neutral and passive online service providers, and not to services that play an active role in distributing, promoting and monetising content at the expense of creators.

Or. en

Amendment 77

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 4

(4) This Directive is based upon, and complements, the rules laid down in the Directives currently in force in this area, in particular Directive 96/9/EC of the European Parliament and of the Council²⁷, Directive 2001/29/EC of the European Parliament and of the Council²⁸, Directive 2006/115/EC of the European Parliament and of the Council²⁹, Directive 2009/24/EC of the European Parliament and of the Council³⁰, Directive 2012/28/EU of the European Parliament and of the Council³¹ and Directive 2014/26/EU of the European Parliament and of the Council³².

(4) This Directive is based upon, and complements, the rules laid down in the Directives currently in force in this area, in particular Directive 96/9/EC of the European Parliament and of the Council²⁷, Directive **2000/31/EC of the European Parliament and of the Council^{27a}**, **Directive** 2001/29/EC of the European Parliament and of the Council²⁸, Directive 2006/115/EC of the European Parliament and of the Council²⁹, Directive 2009/24/EC of the European Parliament and of the Council³⁰, Directive 2012/28/EU of the European Parliament and of the Council³¹ and Directive 2014/26/EU of the European Parliament and of the Council³².

²⁷ Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20–28).

²⁷ Directive 96/9/EC of the European Parliament and of the Council of 11 March 1996 on the legal protection of databases (OJ L 77, 27.3.1996, p. 20–28).

^{27a} **Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce) (OJ L 178, 17.7.2000, p. 1).**

²⁸ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10–19).

²⁸ Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ L 167, 22.6.2001, p. 10–19).

²⁹ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28–35).

²⁹ Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28–35).

³⁰ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ L 111, 5.5.2009, p. 16–22).

³⁰ Directive 2009/24/EC of the European Parliament and of the Council of 23 April 2009 on the legal protection of computer programs (OJ L 111, 5.5.2009, p. 16–22).

³¹ Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5–12).

³² Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72–98).

³¹ Directive 2012/28/EU of the European Parliament and of the Council of 25 October 2012 on certain permitted uses of orphan works (OJ L 299, 27.10.2012, p. 5–12).

³² Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market (OJ L 84, 20.3.2014, p. 72–98).

Or. en

Amendment 78 Julia Reda

Proposal for a directive Recital 5

Text proposed by the Commission

(5) In the fields of research, **education and preservation of** cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC **in these fields may** negatively **impact** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for **scientific** research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies **in the field of scientific research**, illustration for teaching **in the digital environment** and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or **the**

Amendment

(5) In the fields of research **and innovation, transformative use, education and** cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC negatively **impacts** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for research, teaching and preservation of cultural heritage should be reassessed **and complemented** in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies, illustration for teaching, **user-generated content, freedom of panorama,** and for preservation **and dissemination** of cultural heritage should

limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

be introduced. For uses not covered by the exceptions or **limitations** provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 79 **Antanas Guoga**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields **may** negatively **impact** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Amendment

(5) In the fields of research, **innovation**, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields negatively **impacts** the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, **innovation**, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research **and innovation**, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should

be adapted.

Or. en

Amendment 80

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies ***in the field of scientific research***, illustration for teaching ***in the digital environment*** and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies , illustration for teaching and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 81

Jiří Pospíšil

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. ***Mandatory exceptions or limitations for uses of*** text and data mining technologies in the field of scientific research, illustration for teaching ***in the digital environment*** and for preservation of cultural heritage should be ***introduced***. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Amendment

(5) In the fields of research, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. ***The procedure for using*** text and data mining technologies in the field of scientific research, illustration for teaching and for preservation of cultural heritage should be ***set out***. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. cs

Amendment 82

Daniel Dalton

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) In the fields of research, education
PE602.819v01-00

Amendment

(5) In the fields of research,

14/169

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and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

innovation, education and preservation of cultural heritage, digital technologies permit new types of uses that are not clearly covered by the current Union rules on exceptions and limitations. In addition, the optional nature of exceptions and limitations provided for in Directives 2001/29/EC, 96/9/EC and 2009/24/EC in these fields may negatively impact the functioning of the internal market. This is particularly relevant as regards cross-border uses, which are becoming increasingly important in the digital environment. Therefore, the existing exceptions and limitations in Union law that are relevant for *innovation*, scientific research, teaching and preservation of cultural heritage should be reassessed in the light of those new uses. Mandatory exceptions or limitations for uses of text and data mining technologies in the field of scientific research, illustration for teaching in the digital environment and for preservation of cultural heritage should be introduced. *In accordance with the principle of subsidiarity, such exceptions or limitations should complement, rather than replace, existing TDM exceptions in Member States.* For uses not covered by the exceptions or the limitation provided for in this Directive, the exceptions and limitations existing in Union law should continue to apply. Directives 96/9/EC and 2001/29/EC should be adapted.

Or. en

Amendment 83 Julia Reda

Proposal for a directive Recital 6

Text proposed by the Commission

(6) The exceptions and *the limitation* set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders

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Amendment

(6) The exceptions and *limitations* set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one

15/169

PE602.819v01-00

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on the one hand, and of users on the other. They *can be applied only in* certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

hand, and of users on the other. They *have been designed to apply only to* certain special cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Or. en

Amendment 84

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain *special* cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders.

Amendment

(6) The exceptions and the limitation set out in this Directive seek to achieve a fair balance between the rights and interests of authors and other rightholders on the one hand, and of users on the other. They can be applied only in certain cases which do not conflict with the normal exploitation of the works or other subject-matter and do not unreasonably prejudice the legitimate interests of the rightholders. *Such cases concern, in particular, access to education, knowledge and cultural heritage and as such, are generally in the public interest.*

Or. en

Amendment 85

Lucy Anderson, Julia Reda

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) The protection of technological measures established in Directive 2001/29/EC *remains essential* to ensure the protection and the effective exercise of

Amendment

(7) The protection of technological measures established in Directive 2001/29/EC *was established* to ensure the protection and the effective exercise of the

the rights granted to authors and to other rightholders under Union law. ***This*** protection should be ***maintained while ensuring*** that the use of technological measures does not prevent the ***enjoyment*** of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders ***should have the opportunity*** to ensure this through voluntary measures. ***They should remain free to choose the format and the modalities*** to provide the beneficiaries of the exceptions and the limitation established in this Directive ***with the means to benefit from them provided that such means are appropriate. In the absence of voluntary measures***, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

rights granted to authors and to other rightholders under Union law. ***The scope*** of this protection should be ***adapted in order to better ensure*** that the use of technological measures does not prevent the ***users' right to make use*** of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders ***are often not best placed*** to ensure this through voluntary measures ***because technological protection measures are most commonly put in place by entities other than the rightholders. All actors in the value chain should*** provide the beneficiaries of the exceptions and the limitation established in this Directive, ***in Directive 96/9/EC, Directive 2001/29/EC, Directive 2009/24/EC and Directive 2012/28/EU, with the means to benefit from them.*** Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Or. en

Amendment 86 Julia Reda

Proposal for a directive Recital 7

Text proposed by the Commission

(7) The protection of technological measures established in Directive 2001/29/EC ***remains essential*** to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. ***This*** protection should be ***maintained while ensuring*** that the use of technological measures does not prevent the ***enjoyment*** of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders ***should have the opportunity*** to ensure this through

Amendment

(7) The protection of technological measures established in Directive 2001/29/EC ***was established*** to ensure the protection and the effective exercise of the rights granted to authors and to other rightholders under Union law. ***The scope*** of this protection should be ***adapted in order to better ensure*** that the use of technological measures does not prevent the ***users' rights to make use*** of the exceptions and the limitation established in this Directive, which are particularly relevant in the online environment. Rightholders ***are often not best placed*** to

voluntary measures. *They should remain free to choose the format and the modalities to provide the beneficiaries of the exceptions and the limitation established in this Directive with the means to benefit from them provided that such means are appropriate. In the absence of voluntary measures*, Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

ensure this through voluntary measures, *because technological protection measures are most commonly put in place by entities other than the rightsholders. All actors in the value chain should provide the beneficiaries of the exceptions and limitations established in this Directive, in Directive 96/9/EC, Directive 2001/29/EC, Directive 2009/24/EC and Directive 2012/28/EU, with the means to benefit from them.* Member States should take appropriate measures in accordance with the first subparagraph of Article 6(4) of Directive 2001/29/EC.

Or. en

Amendment 87
Lucy Anderson, Julia Reda

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to ensure that technological measures do not prevent the enjoyment of the exceptions and limitations established in this Directive, in Directive 2001/29/EC, Directive 96/9/EC, Directive 2009/24/EC or Directive 2012/28/EU, Article 6(4) of Directive 2001/29/EC needs to be updated in order to take account of the fact that in the marketplace, rightsholders are often unable to make available to the beneficiary of an exception or limitation the means of benefiting from that exception or limitation, because technological protection measures are generally not applied by the rightsholders themselves, but by third party suppliers who provide the content to consumers, such as online marketplaces, some of whom enjoy a dominant market position. The inability of users to make use of their rights under copyright exceptions and limitations is not just having a negative impact on users' fundamental rights, it is

also detrimental to rightsholders who often find themselves in a weaker bargaining position vis-à-vis suppliers of digital content, especially when consumers are locked into the products and services offered by that seller through the use of technological measures. It is therefore insufficient to require Member States only to place obligations upon the rightsholders, who are generally unable to remove the technological protection measures put on their works by third parties. In addition, the act of circumventing technological protection measures for the purposes of enjoying exceptions and limitations to copyright and related rights needs to be exempted from the general legal protection of effective technological measures enshrined in Article 6(1) and 6(2) of Directive 2001/29/EC. Furthermore, the definition of "technological measures" in Article 6(3) of Directive 2001/29/EC needs to be clarified so as not to include measures which are designed to restrict authorised uses under copyright exceptions and limitations.

Or. en

Amendment 88
Julia Reda

Proposal for a directive
Recital 7 a (new)

Text proposed by the Commission

Amendment

(7 a) In order to ensure that technological measures do not prevent the enjoyment of the exceptions and limitations established in this Directive, in Directive 2001/29/EC, Directive 96/9/EC, Directive 2009/24/EC or Directive 2012/28/EU, Article 6(4) of Directive 2001/29/EC needs to be updated in order to take account of the fact that in the marketplace, rightsholders are often unable to make available to the

beneficiary of an exception or limitation the means of benefiting from that exception or limitation, because technological protection measures are generally not applied by the rightsholders themselves, but by third party suppliers who provide the content to consumers, such as online marketplaces, some of whom enjoy a dominant market position. The inability of users to make use of their rights under copyright exceptions and limitations is not just having a negative impact on users' fundamental rights, it is also detrimental to rightsholders who often find themselves in a weaker bargaining position vis-à-vis suppliers of digital content, especially when consumers are locked into the products and services offered by that seller through the use of technological measures. It is therefore insufficient to require Member States only to place obligations upon the rightsholders, who are generally unable to remove the technological protection measures put on their works by third parties. In addition, the act of circumventing technological protection measures for the purposes of enjoying exceptions and limitations to copyright and related rights needs to be exempted from the general legal protection of effective technological measures enshrined in Article 6(1) and 6(2) of Directive 2001/29/EC. Furthermore, the definition of "technological measures" in Article 6(3) of Directive 2001/29/EC needs to be clarified so as not to include measures which are designed to restrict authorised uses under copyright exceptions and limitations.

Or. en

Amendment 89

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

**Proposal for a directive
Recital 8**

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow **researchers to process** large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that **text and data mining can in particular benefit the research community and in so doing** encourage innovation. **However, in the Union,** research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. **In certain instances,** text and data mining **may involve acts** protected by copyright **and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders.** Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright **and in such instances no authorisation would be required.**

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow **the processing of** large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that **there is a need to clarify the legality of copies made for purposes of text and data mining in order to** encourage innovation **and discovery in all fields. Without a mandatory exception applying throughout the Union, all entities engaging in text and data mining, including** research organisations such as universities and research institutes, are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. **For text and data mining to occur one first needs to access information and then to reproduce that information. It is generally only after that information is normalised that its processing through** text and data mining **can occur. Once there is lawful access to information, it is when that information is being normalised that a copyright protected use takes place since this leads to a reproduction by changing the format of the information itself or an extraction from a database into one that can be subjected to text and data mining. The copyright relevant processes in the use of text and data mining technology is consequently not the text and data mining process itself which consists of a reading and analysis of digitally stored normalised information, but the process of access and the process by which information is normalised to enable its automated computational analysis. The process of access to information be it works or other subject matter protected by copyright is already regulated in the copyright related acquis. In certain instances, text and data mining may involve works protected by**

copyright and/or by the sui generis database right. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright.

Or. en

Amendment 90

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow **researchers to process** large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, **research organisations such as universities and research institutes** are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or **any other type of** data, generally known as text and data mining. Those technologies allow **the processing of** large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, **individuals, public and private entities who have legal access to content** are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be

required.

required. *The right to read is the right to mine.*

Or. en

Amendment 91

Jiří Maštálka

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *in particular benefit* the research community and in so doing encourage innovation. However, in the Union, *research organisations such as universities and research institutes* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow *citizens, start-ups, researchers and journalists* to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can *also benefit citizen science*, the research community and *journalism and* in so doing encourage innovation. However, in the Union, *individuals and legal entities with lawful access to content* are confronted with legal uncertainty as to the extent to which they can perform text and data mining of *that* content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Amendment 92**Antanas Guoga****Proposal for a directive****Recital 8***Text proposed by the Commission*

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of **digitally stored** information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. Text and data mining may also be carried out in relation to mere facts or data which are not protected by copyright and in such instances no authorisation would be required.

Amendment 93

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Proposal for a directive

Recital 8

Text proposed by the Commission

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. ***Text and*** data mining ***may also be*** carried out in relation to mere facts or data which are not protected by copyright ***and in such instances no authorisation would be required.***

Amendment

(8) New technologies enable the automated computational analysis of information in digital form, such as text, sounds, images or data, generally known as text and data mining. Those technologies allow researchers to process large amounts of information to gain new knowledge and discover new trends. Whilst text and data mining technologies are prevalent across the digital economy, there is widespread acknowledgment that text and data mining can in particular benefit the research community and in so doing encourage innovation. However, in the Union, research organisations such as universities and research institutes are confronted with legal uncertainty as to the extent to which they can perform text and data mining of content. In certain instances, text and data mining may involve acts protected by copyright and/or by the sui generis database right, notably the reproduction of works or other subject-matter and/or the extraction of contents from a database. Where there is no exception or limitation which applies, an authorisation to undertake such acts would be required from rightholders. ***No authorisation would be required in cases where text or*** data mining ***is*** carried out in relation to mere facts or data which are not protected by copyright.

Or. cs

Amendment 94

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 9

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies *in* scientific research. Moreover, where *researchers have* lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty *for* text and data mining.

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of *text and data mining* technologies *which are relevant far beyond the area of* scientific research. Moreover, where *there is* lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area *and action lines envisaged in the European Open Science Agenda* will suffer unless steps are taken to address the legal uncertainty *regarding text and data mining for all potential users. Union law must acknowledge that* text and data mining *is increasingly used beyond formal research organisations and for purposes other than scientific research which nevertheless contribute to innovation, technology transfer and the public interest.*

Or. en

Amendment 95

Pascal Arimont, Herbert Reul

Proposal for a directive

Recital 9

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have *lawful*

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have

access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

lawfully obtained access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. de

Amendment 96

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research ***and its Open Science Agenda*** is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Or. en

Amendment 97

Daniel Dalton

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining.

Amendment

(9) Union law already provides certain exceptions and limitations covering uses for scientific research purposes which may apply to acts of text and data mining. However, those exceptions and limitations are optional and not fully adapted to the use of technologies in scientific research. Moreover, where researchers have lawful access to content, for example through subscriptions to publications or open access licences, the terms of the licences may exclude text and data mining. As research is increasingly carried out with the assistance of digital technology, there is a risk that the Union's competitive position as a research area will suffer unless steps are taken to address the legal uncertainty for text and data mining ***in Union law, while ensuring that well-functioning text and data mining exceptions in Member States may continue to be applied.***

Or. en

Amendment 98

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9 a) Furthermore, there is widespread acknowledgment that access to normalised information in a format which enables it to be subjected to text and data mining can in particular benefit the research community in its entirety including to smaller research organisations especially when there is no lawful access to content, for example through subscriptions to publications or open access licences. In the Union, research organisations such as

universities and research institutes are confronted with challenges to gain lawful access to the volume of digitally stored information required for new knowledge to be sought through the use of text and data mining.

Or. en

Amendment 99

Philippe Juvin

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. *The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.*

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. *This exception applies only to the mining of texts and data for non-commercial purposes. In order not to prejudice the normal exploitation of their works in the interests of developing the mining of texts and data, rightholders should be allowed to develop licences on the market and receive remuneration. The flexibility of the contractual solutions should also make it possible to take into account the diversity of the mining acts carried out and their purpose.*

Or. fr

Amendment 100

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and

also to the right to prevent extraction from a database. ***The new*** exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. ***Research organisations should also benefit from the exception when they engage into public-private partnerships.***

also to the right to prevent extraction from a database ***for the purposes of text and data mining, which should not be subject to compensation given that in view of the nature and scope of the exception the harm should be minimal. An additional mandatory exception should allow research organisations to have access to normalised information in a format that enables it to be text and data mined provided that that process is carried out by the research organisation. Rightholders should not be able to seek compensation for this exception that goes beyond what is necessary and proportionate to the cost of the normalisation process. Research organisations should also benefit from this exception when they engage in public-private partnerships. These new exceptions*** should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 101

Virginie Rozière, Sylvie Guillaume, Pervenche Berès, Marc Tarabella

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should ***be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies***

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should ***only apply to the text and data mining process pursued for non-commercial purpose. Right holders should keep the capacity to develop licences and to receive payment.***

*going beyond the scope of that exception.
Research organisations should also
benefit from the exception when they
engage into public-private partnerships.*

Or. en

Amendment 102
Antanas Guoga

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new *exception* should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. *Research organisations should also benefit from the exception when they engage into public-private partnerships.*

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. *Research organisations should also benefit from the exception when they engage into public-private partnerships.* The new *exceptions* should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception.

Or. en

Amendment 103
Pascal Arimont, Herbert Reul

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory

exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships, ***provided that the partnership is not profit-oriented or that they reinvest all their profits in scientific research.***

Or. de

Amendment 104
Daniel Dalton

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception. Research organisations should also benefit from the exception when they engage into public-private partnerships.

Amendment

(10) This legal uncertainty should be addressed by providing for a mandatory exception to the right of reproduction and also to the right to prevent extraction from a database. The new exception should be without prejudice to the existing mandatory exception on temporary acts of reproduction laid down in Article 5(1) of Directive 2001/29, which should continue to apply to text and data mining techniques which do not involve the making of copies going beyond the scope of that exception, ***and should complement, rather than replace, existing TDM exceptions in Member States.*** Research organisations should also benefit from the exception when they engage into public-private partnerships.

Or. en

Amendment 105
Antonio López-Istúriz White

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) It is generally considered, including for the purposes of this Directive, that a work or other subject-matter protected by copyright has been communicated and/or made available to the public, as referred to in Article 3 of Directive 2001/29/EC, when the circle of persons able to access that work or subject-matter extends beyond the family or household in the narrow sense.

Or. es

Amendment 106
Jiří Maštálka

Proposal for a directive
Recital 11

Text proposed by the Commission

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members,

deleted

which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 107

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct *scientific* research or to do so together with the provision of educational services. *Due to* the diversity of such entities, it is important *to have a common understanding of the beneficiaries of the exception*. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. *At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.*

Amendment

(11) Research organisations across the Union encompass a wide variety *and size* of entities the primary goal of which is to conduct research or to do so together with the provision of educational services. *Taking into account* the diversity of such entities, *for instance small research organisations with only limited access to content*, it is important *that rightholders provide access to normalised datasets for the purpose of text and data mining*. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts.

Or. en

Amendment 108

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

PE602.819v01-00

34/169

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Proposal for a directive
Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a *not for profit* basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a *decisive* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Amendment

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a *non-commercial* basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. *Research organisations that carry out text and data mining for a commercial purpose, shall not be considered research organisation for the purpose of this Directive.* At the same time, organisations upon which commercial undertakings have a *significant* influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. *Research organisations that carry out text and data mining as part of public-private partnership should benefit from the exception provided that they act on a non-profit, non-commercial purpose. Therefore, content used by research organisations that carry out text and data mining for commercial purposes as part of a public-private partnership should be lawfully acquired by their commercial partner.*

Or. en

Amendment 109

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 11

Text proposed by the Commission

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Amendment

(11) Research organisations across the Union encompass a wide variety of entities ***which carry out research, including the public sector and cultural heritage institutions***, the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

Or. en

Amendment 110

Lambert van Nistelrooij

Proposal for a directive

Recital 11

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a **decisive** influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a **significant** influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. ***Commercial undertakings participating in PPPs should acquire lawful access through the rights holder.***

Or. en

Amendment 111

Pascal Arimont, Herbert Reul

Proposal for a directive

Recital 11

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding

(11) Research organisations across the Union encompass a wide variety of entities the primary goal of which is to conduct scientific research or to do so together with the provision of educational services. Due to the diversity of such entities, it is important to have a common understanding

of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive.

of the beneficiaries of the exception. Despite different legal forms and structures, research organisations across Member States generally have in common that they act either on a not for profit, ***non-commercial*** basis or in the context of a public-interest mission recognised by the State. Such a public-interest mission may, for example, be reflected through public funding or through provisions in national laws or public contracts. At the same time, organisations ***that undertake text and data mining for commercial purposes as well as organisations*** upon which commercial undertakings have a decisive influence allowing them to exercise control because of structural situations such as their quality of shareholders or members, which may result in preferential access to the results of the research, should not be considered research organisations for the purposes of this Directive. ***In case a research organization is part of a public-private partnership and engages in text and data mining for the benefit of the commercial undertaking, the commercial undertaking should also acquire lawful access through the rightholder.***

Or. en

Amendment 112

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of ***their*** works or other subject-matter, ***rightholders should be allowed to apply measures where there is risk that the security and integrity of the system or databases where the works or other subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the***

Amendment

(12) In view of a potentially high number of access requests to and downloads of works or other subject-matter, ***and in order to ensure reproducibility of research results, Member States shall designate a facility to safely store datasets used for text and data mining.***

objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.

Or. en

Amendment 113
Jiří Maštálka

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security *and integrity* of the system or databases where the works or other subject-matter are hosted would be jeopardised. *Those measures should not exceed what is necessary to pursue the objective of ensuring the security and integrity of the system and should not undermine the effective application of the exception.*

Amendment

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security of the system or databases where the works or other subject-matter are hosted would be jeopardised.

Or. en

Amendment 114
Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security *and integrity* of the system or databases where the works or other

Amendment

(12) In view of a potentially high number of access requests to and downloads of their works or other subject-matter, rightholders should be allowed to apply measures where there is risk that the security of the system or databases where the works or other subject-matter are

subject-matter are hosted would be jeopardised. Those measures should not exceed what is necessary to pursue the objective of ensuring the security *and integrity* of the system and should not undermine the effective application of the exception.

hosted would be jeopardised. Those measures should not exceed what is necessary, *proportionate and effective* to pursue the objective of ensuring the security of the system and should not undermine the effective application of the exception.

Or. en

Amendment 115
Philippe Juvin

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

deleted

Or. fr

Amendment 116
Pascal Arimont, Herbert Reul

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) There is no need to provide for compensation for rightholders as regards uses under the text and data mining exception introduced by this Directive given that in view of the nature and scope of the exception the harm should be minimal.

deleted

Or. en

Amendment 117

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) *There is no need to provide for compensation for rightholders* as regards uses under the text and data mining exception introduced by this Directive *given that in view of the nature and scope of the exception the harm should be minimal.*

Amendment

(13) *Considering the harm caused to rightholders, Member states shall provide them for compensation* as regards uses under the text and data mining exception introduced by this Directive.

Or. en

Amendment 118

Virginie Rozière, Sylvie Guillaume, Marc Tarabella, Pervenche Berès

Proposal for a directive

Recital 13 a (new)

Text proposed by the Commission

Amendment

(13 a) The process of text and data mining includes a substantial download of protected works and other subject matter. Therefore the storage and copy of content shall be strictly limited to what is necessary to verify results. Any copies stored shall be deleted after a reasonable period of time, in order to avoid other uses not covered by the exception.

Or. en

Amendment 119

Julia Reda

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) Article 5(3)(a) of Directive

(14) Article 5(3)(a) of Directive

2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the *sole* purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. ***The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance.***

Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational *establishments* benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching.

However those exceptions and limitations are not mandatory and some Member States have followed a too narrow interpretation of illustration for teaching in their national implementations of the exceptions. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational *activities* benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Or. en

Amendment 120

Daniel Dalton

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and

PE602.819v01-00

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and

the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. ***The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there*** is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. There is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.

Or. en

Amendment 121

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided

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Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided

43/169

PE602.819v01-00

online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure *that educational establishments benefit from* full legal certainty when using works or other subject-matter in *digital* teaching activities, including online and across borders.

online and thereby at a distance. Moreover, the existing framework does not provide for a cross-border effect. This situation may hamper the development of digitally-supported teaching activities and distance learning. Therefore, the introduction of a new mandatory exception or limitation is necessary to ensure full legal certainty when using works or other subject-matter in teaching activities, including online and across borders.

Or. en

Justification

The reference to educational establishments in combination with the non-commercial purpose has created in the past ambiguity over whether private educational establishments can benefit from this exception. The exception or limitation for education should therefore not specify the beneficiaries but rather rely on the three step tests

Amendment 122

Jiří Pospíšil

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide

Amendment

(14) Article 5(3)(a) of Directive 2001/29/EC allows Member States to introduce an exception or limitation to the rights of reproduction, communication to the public and making available to the public for the sole purpose of, among others, illustration for teaching. In addition, Articles 6(2)(b) and 9(b) of Directive 96/9/EC permit the use of a database and the extraction or re-utilization of a substantial part of its contents for the purpose of illustration for teaching. The scope of those exceptions or limitations as they apply to digital uses is unclear. In addition, there is a lack of clarity as to whether those exceptions or limitations would apply where teaching is provided online and thereby at a distance. Moreover, the existing framework does not provide

for a cross-border effect. ***This situation may hamper*** the development of ***digitally-supported teaching*** activities and distance learning. ***Therefore, the introduction of a new*** mandatory exception or limitation ***is necessary to ensure that educational establishments benefit from full legal certainty when using works or other subject-matter in digital teaching activities, including online and across borders.***

for a cross-border effect. ***Having regard to the possible negative impact on*** the development of ***digital*** activities and distance learning, ***clear limits for the application of the*** mandatory exception or limitation ***must be set out in order to guarantee educational establishments greater legal certainty.***

Or. cs

Amendment 123

Julia Reda

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational ***establishments*** in primary, secondary, vocational and higher education to the extent they pursue their educational ***activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the*** activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational ***activities , including*** in primary, secondary, vocational and higher education to the extent they pursue their educational activity.

Or. en

Amendment 124

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

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45/169

PE602.819v01-00

EN

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit *all* educational ***establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose.*** The organisational structure and the means of funding of an educational establishment are not *the decisive factors* to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit educational ***activities for non-commercial purposes. However in order to ensure that*** the organisational structure and the means of funding of an educational establishment are not ***factors taken into account*** to determine the non-commercial nature of the activity, ***the exception or limitation should not be limited to educational establishments.***

Or. en

Justification

The reference to educational establishments in combination with the non-commercial purpose has created in the past ambiguity over whether private educational establishments can benefit from this exception. The exception or limitation for education should therefore not specify the beneficiaries but rather rely on the three step tests

Amendment 125

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary,

Amendment

(15) While distance learning, ***e-learning*** and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary,

vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 126

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments ***recognized by the Member State in which they are established*** in primary, secondary, vocational and higher education ***as well as libraries or other public and non-profit institutions providing non-formal or informal cultural and other education***, to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 127

Antanas Guoga

Proposal for a directive

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47/169

PE602.819v01-00

EN

Recital 15

Text proposed by the Commission

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education to the extent they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Amendment

(15) While distance learning and cross-border education programmes are mostly developed at higher education level, digital tools and resources are increasingly used at all education levels, in particular to improve and enrich the learning experience. The exception or limitation provided for in this Directive should therefore benefit all educational establishments in primary, secondary, vocational and higher education, ***also including libraries which provide non-formal learning activities for a wide range of citizens across the Union every year*** to the extent ***when*** they pursue their educational activity for a non-commercial purpose. The organisational structure and the means of funding of an educational establishment are not the decisive factors to determine the non-commercial nature of the activity.

Or. en

Amendment 128

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities ***to the extent justified by the non-commercial purpose to be achieved. The amount of a work that can be copied may vary according to the type of work and its use. Member States should be able therefore to set out appropriate limits in their national law to address this variation, as long as these***

necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

limits strike a fair balance between the needs of users and rightholders. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through *e-learning and* the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 129 Julia Reda

Proposal for a directive Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities **carried out under the responsibility of educational establishments**, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both **uses through digital means** in the

Amendment

(16) The exception or limitation should cover uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both **offline uses such as uses** in the classroom, and online uses . The exception or limitation should be understood as covering the specific

classroom and online uses *through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures*. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 130

Antanas Guoga

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover **digital** uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover **all** uses of works and other subject-matter, **digital or otherwise**, such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, **libraries that provide non-formal learning activities**, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom **or learning area** and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment 131**Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès****Proposal for a directive****Recital 16***Text proposed by the Commission*

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of *parts or* extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter *or extracts* under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. ***Thus, for example, the exception should be limited to the use of short extracts for written works, except in the case of plays and poems.*** The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Amendment 132**Philippe Juvin****Proposal for a directive****Recital 16**

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of **parts or** extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter **or extracts** under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. ***Thus, for example, the exception should be limited to the use of brief extracts for intellectual works, except in the case of plays and poems.*** The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. fr

Amendment 133

Morten Løkkegaard, Jasenko Selimovic

Proposal for a directive

Recital 16

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of **small** parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The ***notion of "illustration for teaching" is usually***

exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

understood as allowing a teacher to use a work to give examples and to explain or support his/her course. The use of the works or other subject-matter under the exception or limitation should *therefore* be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 134

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including during examinations, and be limited to what is necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the

Amendment

(16) The exception or limitation should cover digital uses of works and other subject-matter such as the use of parts or extracts of works to support, enrich or complement the teaching, including the related learning activities. The use of the works or other subject-matter under the exception or limitation should be only in the context of teaching and learning activities carried out under the responsibility of educational establishments, including *organizations such as libraries and other cultural heritage institutions providing non-formal or informal education*, including during examinations, and be limited to what is

classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

necessary for the purpose of such activities. The exception or limitation should cover both uses through digital means in the classroom and online uses through the educational establishment's secure electronic network, the access to which should be protected, notably by authentication procedures. The exception or limitation should be understood as covering the specific accessibility needs of persons with a disability in the context of illustration for teaching.

Or. en

Amendment 135

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive

Recital 17

Text proposed by the Commission

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering

deleted

at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Justification

The implementation of the Infosoc Directive has shown that the use of licenses is in most cases not enough to ensure entities involved in teaching and scientific activities can benefit from this exception or limitation

Amendment 136 **Julia Reda**

Proposal for a directive **Recital 17**

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on ***licensing agreements covering further uses***, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to ***digital*** uses and cross-border teaching activities, the modalities of implementation may

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on ***extended collective licensing agreements***, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the ***constraints set by the closed list of voluntary exceptions at Union level***, the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to ***offline***

differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States *could* decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate *licences*, covering at least the same uses as those allowed under the *exception*. ***This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market.*** In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing *digital* uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

and online uses and *particularly* cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing *extended collective licencing* arrangements concluded at national level. In particular, Member States *may* decide to subject the application of the exception or limitation, fully or partially, to the *actual* availability of adequate *extended collective licencing agreements*, covering at least the same uses as those allowed under the *exception*. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that *extended collective* licensing schemes allowing uses of works or other subject-matter for the purpose of illustration for teaching are easily available and *affordable, covering all uses allowed under the exception, and* that educational establishments are aware of the existence of such *extended collective* licensing schemes.

Or. en

Amendment 137 Morten Løkkegaard

Proposal for a directive Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational

PE602.819v01-00

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of *short parts or extracts of* works and other subject-matter. Such arrangements have usually been developed taking account of

establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States *could decide to subject* the application of the exception or limitation, *fully or partially*, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. *This mechanism would, for example*, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States *adopting this approach should* take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States *shall make* the application of the exception or limitation *subject* to the availability of adequate licences, covering at least the same uses as those allowed under the exception. *Such a licence must be deemed available even in cases where the licence terms include certain limitations regarding the use. This mechanism will* allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States *must* take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes. *When such a licence override mechanism exists, the Member State is not required to introduce the exception provision in Art. 4(1). The Directive is without prejudice to the arrangements in the Member States concerning the management of rights such as extended collective licences, legal presumption or similar arrangements or a combination of them.*

Or. en

Amendment 138

Daniel Dalton, Anneleen Van Bossuyt

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57/169

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Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to **digital uses and** cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of adequate licences, covering at least the same uses as those allowed under the exception. This mechanism would, for example, allow giving precedence to licences for materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 139

Philippe Juvin

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of *adequate* licences, covering at least the same uses as those allowed under the exception. This mechanism *would, for example, allow giving precedence to licences for* materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing

Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of licences, covering at least the same uses as those allowed under the exception. This mechanism *should not, on the other hand, apply to sheet music or* materials which are primarily intended for the educational market, *for which it should be possible to arrange licences*. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing

schemes.

schemes.

Or. fr

Amendment 140

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of *adequate* licences, covering at least the same uses as those allowed under the exception. This mechanism **would, for example, allow giving precedence to licences for** materials which are primarily intended for the educational market. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other

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Amendment

(17) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC or on licensing agreements covering further uses, are in place in a number of Member States in order to facilitate educational uses of works and other subject-matter. Such arrangements have usually been developed taking account of the needs of educational establishments and different levels of education. Whereas it is essential to harmonise the scope of the new mandatory exception or limitation in relation to digital uses and cross-border teaching activities, the modalities of implementation may differ from a Member State to another, to the extent they do not hamper the effective application of the exception or limitation or cross-border uses. This should allow Member States to build on the existing arrangements concluded at national level. In particular, Member States could decide to subject the application of the exception or limitation, fully or partially, to the availability of licences, covering at least the same uses as those allowed under the exception. This mechanism **should however not apply to** materials which are primarily intended for the educational market, **for which it should be possible to arrange licences**. In order to avoid that such mechanism results in legal uncertainty or administrative burden for educational establishments, Member States adopting this approach should take concrete measures to ensure that licensing schemes allowing digital uses of works or other

60/169

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subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

subject-matter for the purpose of illustration for teaching are easily available and that educational establishments are aware of the existence of such licensing schemes.

Or. en

Amendment 141
Catherine Stihler, Julia Reda

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of *their collections* for future generations. Digital technologies offer new ways to preserve the heritage contained in *those* collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction *in order to allow those acts of preservation*.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of *cultural heritage* for future generations. Digital technologies offer new ways to preserve the heritage contained in *the* collections *of cultural heritage institutions*, but they also create new challenges. *One such challenge is the systematic collection and preservation of works which are not originally published by traditional analogue means, but originate in a digital form (so-called born-digital works). Whereas publishers in member states are typically obliged to provide a reference copy of each published work to certain cultural heritage institutions for archiving purposes, such obligations often do not apply to born-digital works. In the absence of the provision of reference copies by the authors or publishers of born-digital works, cultural heritage institutions should be allowed to make reproductions of born-digital works at their own initiative whenever they are openly available on the Internet, in order to add them to their permanent collections. Cultural heritage institutions also engage in making internal*

reproductions for many varying purposes including insurance, rights clearance, and loans. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction.

Or. en

Amendment 142
Julia Reda

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of *their collections* for future generations. Digital technologies offer new ways to preserve the heritage contained in *those* collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction *in order to allow those acts of preservation.*

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of *cultural heritage* for future generations. Digital technologies offer new ways to preserve the heritage contained in *the* collections *of cultural heritage institutions*, but they also create new challenges. *One such challenge is the systematic collection and preservation of works which are not originally published by traditional analogue means, but originate in a digital form (so-called born-digital works).* *Whereas publishers in member states are typically obliged to provide a reference copy of each published work to certain cultural heritage institutions for archiving purposes, such obligations often do not apply to born-digital works. In the absence of the provision of reference copies by the authors or publishers of born-digital works, cultural heritage institutions should be allowed to make reproductions of born-digital works at their own initiative whenever they are openly available on the Internet, in order to add them to their permanent*

collections. Cultural heritage institutions also engage in making internal reproductions for many varying purposes including insurance, rights clearance, and loans. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction.

Or. en

Amendment 143

Antanas Guoga

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of *these* new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also *may* create new challenges. In view of *possible* new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

Or. en

Amendment 144

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 18

Text proposed by the Commission

Amendment

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation.

(18) An act of preservation may require a reproduction of a work or other subject-matter in the collection of a cultural heritage institution and consequently the authorisation of the relevant rightholders. Cultural heritage institutions are engaged in the preservation of their collections for future generations. Digital technologies offer new ways to preserve the heritage contained in those collections but they also create new challenges. In view of these new challenges, it is necessary to adapt the current legal framework by providing a mandatory exception to the right of reproduction in order to allow those acts of preservation *as well as reproductions for other purposes such as insurance and rights clearance and including long-term and cross border loans.*

Or. en

Amendment 145

Julia Reda

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) Different approaches in the Member States for acts of **preservation** by cultural heritage institutions hamper cross-border cooperation *and the sharing of means of preservation by cultural heritage institutions in the internal market, leading to an inefficient use of resources.*

Amendment

(19) Different approaches in the Member States for acts of **reproduction** by cultural heritage institutions *and educational establishments* hamper cross-border cooperation. *The collections of cultural heritage institutions, if not unique, are likely to be replicated and sit in other institutions, including those in other Member States. It is possible that cultural heritage institutions would also wish to create preservation networks cross borders, to use resources efficiently.*

Or. en

Amendment 146

Julia Reda

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64/169

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Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation ***purposes***, for example to address technological obsolescence or the degradation of original supports. ***Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and*** at any point in the life of a work or other subject-matter to the extent required ***in order to produce a copy for preservation purposes only***.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions ***and educational establishments*** to reproduce works and other subject-matter permanently in their collections for ***the purpose of carrying out their public interest mission in*** preservation, ***research, education, culture and teaching***, for example to address technological obsolescence or the degradation of original supports, ***to build collections of born-digital works or*** for the ***purpose of digitisation***. ***Such an exception should allow for the making of copies in any format or medium*** at any point in the life of a work or other subject-matter ***and*** to the extent required ***for such reproduction, including via partnerships with other institutions or third parties, which may be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception***.

Or. en

Amendment 147
Antanas Guoga

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation ***purposes***, for example to address technological obsolescence or the degradation of original supports. Such an

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions ***and educational establishments*** to reproduce works and other subject-matter, ***digitally or otherwise***, permanently in their collections for preservation, for example to address technological obsolescence or the

exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

degradation of original supports. Such an exception should allow for the making of copies *in any format* by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Or. en

Amendment 148

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only.

Amendment

(20) Member States should therefore be required to provide for an exception to permit cultural heritage institutions to reproduce works and other subject-matter permanently in their collections for preservation purposes, for example to address technological obsolescence or the degradation of original supports *or for the purpose of digitalization*. Such an exception should allow for the making of copies by the appropriate preservation tool, means or technology, in the required number and at any point in the life of a work or other subject-matter to the extent required in order to produce a copy for preservation purposes only. *Such an exception should cover both cultural heritage institutions, including archeological or other museum institutions of universities and colleges holding the works or other subject-matter, and third party cultural heritage institutions or service providers, which may be requested to perform the act of reproduction on behalf of a cultural heritage institution within the scope of the exception.*

Or. en

Amendment 149

Julia Reda

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned **or** permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned, ***held on long-term loan or are*** permanently held by the cultural heritage institution ***or educational establishment***, for example as a result of a transfer of ownership or licence agreements.

Or. en

Amendment 150

Antanas Guoga

Proposal for a directive

Recital 21

Text proposed by the Commission

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution when copies are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Amendment

(21) For the purposes of this Directive, works and other subject-matter should be considered to be permanently in the collection of a cultural heritage institution ***or educational establishment*** when copies are owned or permanently held by the cultural heritage institution, for example as a result of a transfer of ownership or licence agreements.

Or. en

Amendment 151

Julia Reda, Max Andersson, Brando Benifei

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21 a) Cultural heritage institutions, and educational establishments have long been involved in making reproductions for individual researchers in their collections, upon their request and on an ad hoc basis. This serves to support and enrich an individual's scientific research, as a researcher who cannot travel to where a work or related subject matter is held is able to request that a reproduction be made for them in compliance with current Union rules on exceptions and limitations. Research, education and learning is increasingly taking place in a cross border environment. There is however a lack of clarity as to whether the existing exceptions or limitations in Member States provide for a cross-border effect. This situation hampers scientific research and the development of the European Research Area. This legal uncertainty should be addressed, and researchers provided with a clear framework that allows them to request a cultural heritage institution, or educational establishment to make and supply them with a reproduction of a work or other subject matter for the purposes of their research, including in a cross border context.

Or. en

Amendment 152

Julia Reda, Max Andersson, Brando Benifei

Proposal for a directive

Recital 21 b (new)

Text proposed by the Commission

Amendment

(21 b) Different arrangements, based on the implementation of the exception provided for in Directive 2001/29/EC, are in place in a number of Member States in

order to facilitate cultural heritage institutions, and educational establishments to give on site access to works and other subject-matter on the premises. Such arrangements exist as educational establishments and cultural heritage institutions are involved in preserving and giving access to their digital collections on the premises. Digital technologies provide new ways of giving access to those collections on the premises, for example the use of WIFI networks to give users access to collections on their own portable devices, such as mobile phones and laptops. The requirement to use dedicated terminals for giving access to content on the premises has proven impractical and outdated. At the same time, the maturity of digital preservation requires cultural heritage institutions to preserve and give access not just to digitised analogue works and other subject matter, but also to born-digital materials. Member States should therefore be required to provide for an exception to permit cultural heritage institutions, and educational establishments to give access to all digitised and born-digital collections on the premises or online. Such an exception should allow copies to be delivered on any technology to members of the public.

Or. en

Amendment 153

Julia Reda

Proposal for a directive

Recital 21 c (new)

Text proposed by the Commission

Amendment

(21 c) In its ruling in Case C-174/15, Vereniging Openbare Bibliotheken v Stichting Leenrecht^{1a}, the Court of Justice recognised that the lending of e-books can fall under the same rules as the lending of physical books. When Member States

apply the limitation to copyright in Article 6 of Directive 2006/115/EC of the European Parliament and of the Council^{1b}, libraries are able to buy any physical book on the market. Once purchased, they can lend it without restrictions linked to contract terms or other measures of protection which prevent the exercise of exceptions and limitations to copyright. That provision should also apply to e-books. Moreover, with the objective of ensuring that all citizens of the Union have access to a full selection of books and other resources, all Member States should ensure that the limitation to the exclusive public lending right in Article 6 of Directive 2006/115/EC is made mandatory.

^{1a} Judgement of the Court of Justice of 10 November 2016, Vereniging Openbare Bibliotheken v Stichting Leenrecht, ECLI:EU:C:2016:856.

^{1b} Directive 2006/115/EC of the European Parliament and of the Council of 12 December 2006 on rental right and lending right and on certain rights related to copyright in the field of intellectual property (OJ L 376, 27.12.2006, p. 28).

Or. en

Amendment 154
Julia Reda, Dita Charanzová, Marietje Schaake

Proposal for a directive
Recital 21 d (new)

Text proposed by the Commission

Amendment

(21 d) The reconciliation of the public's interest to participate in the public sphere by means of an exception regarding the use of depictions of buildings and permanent structures is necessary. Professional photographers and other authors, rightsholders, consumers,

institutional users and service providers are predominantly using depictions of works on the basis of national exceptions for 'freedom of panorama' and rely on legal certainty for cross-border usage.

Or. en

Amendment 155
Julia Reda, Michel Reimon

Proposal for a directive
Recital 21 e (new)

Text proposed by the Commission

Amendment

(21 e) Following technological developments and evolving user behaviour, a significant phenomenon of cultural creation has emerged, which relies on users uploading or displaying content, in various forms, to online services. Such user-generated content may comprise extracts or quotations of protected works or other subject-matter, which may be altered, combined or transformed for different purposes by users. Such uses of extracts or quotations within user-generated content, for various purposes such as the illustration of an idea, review or entertainment, are now widespread online and, provided that the use of such extracts or quotations of protected works or other subject-matter is proportionate, do not cause significant economic harm to the rightsholders concerned and may even advertise the work used within the user-generated content.

Or. en

Amendment 156
Julia Reda, Michel Reimon

Proposal for a directive
Recital 21 f (new)

(21 f) Despite some overlap with existing voluntary exceptions or limitations, such as the ones for quotation and parody, the use of protected works or other subject-matter within user-generated content is nonetheless not properly covered by the existing list of exceptions or limitations, creating legal uncertainty for users. Particularly the voluntary nature of existing exceptions and limitations is significantly curtailing the development of user-generated content, which is typically disseminated in a borderless online environment. It is therefore necessary to provide a new mandatory specific exception to authorise the legitimate uses of extracts or quotations of protected works or other subject-matter within user-generated content.

Or. en

Amendment 157

Julia Reda

Proposal for a directive

Recital 21 g (new)

(21 g) Numerous Member States exempt official works such as laws, court orders and other official works from copyright protection in line with the provision of the Berne Convention Article 4 (2). Such rules create scenarios in which content is in the public domain in a Member State, which usually results in that content not being released under permissible licenses. If other Member States lack corresponding provisions, the legal cross-border reuse of such content is prohibited. Mutual recognition of the public domain status of certain works resolves any inconsistencies in the cross-border use of works exempted from copyright

protection.

Or. en

Amendment 158

Antanas Guoga

Proposal for a directive

Recital 22

Text proposed by the Commission

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***licensing of rights in*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Amendment

(22) Cultural heritage institutions should benefit from a clear framework for the digitisation and dissemination, including across borders, of out-of-commerce works or other subject-matter. However, the particular characteristics of the collections of out-of-commerce works mean that obtaining the prior consent of the individual rightholders may be very difficult. This can be due, for example, to the age of the works or other subject-matter, their limited commercial value or the fact that they were never intended for commercial use. It is therefore necessary to provide for measures to facilitate the ***online availability of*** out-of-commerce works that are in the collections of cultural heritage institutions and thereby to allow the conclusion of agreements with cross-border effect in the internal market.

Or. en

Amendment 159

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) Member States ***should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing for licences***

Amendment

(23) ***This directive is without prejudice to specific solutions developed by Member States in order to deal with the issues raised by mass digitisation, such as***

for out-of-commerce works to extend to the rights of rightholders that are not represented by the collective management organisation, in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

systems for out-of-commerce works. Such solutions take into account the specific characteristic of the various types of work or other subject-matter and of the various users; they are devised on the basis of consensus between the stakeholders. This approach has already been adopted in the Memorandum of Understanding on Key Principles on the Digitisation and Making Available of Out-of-Commerce Works, signed on 20 September 2011 by representatives of European libraries, authors, publishers and collective management organisations under the aegis of the Commission. This directive is without prejudice to that Memorandum of Understanding, which calls on Member States and the Commission to ensure that voluntary agreements concluded between users, rightholders and collective management organisations to authorise the use of out-of-commerce works on the basis of the principles contained in the Memorandum have the benefit of legal certainty in the national and cross-border context. Member States should have a certain margin of discretion to choose the specific type of arrangement in accordance to their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

Or. en

Amendment 160
Philippe Juvin

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) Member States *should, within the framework provided for in this Directive, have flexibility in choosing the specific type of mechanism allowing for licences for out-of-commerce works to extend to the rights of rightholders that are not*

PE602.819v01-00

Amendment

(23) *This directive is based on specific solutions developed by Member States in order to deal with the issues raised by mass digitisation through systems for out-of-commerce works. Such solutions take into account the specific characteristics of*

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represented by the collective management organisation, in accordance *to* their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing and presumptions of representation.

the various types of work or other subject-matter and of the various users; they are devised on the basis of consensus between the stakeholders. This Directive also embodies the principles informing the Memorandum of Understanding on Key Principles on the Digitisation and Making Available of Out-of-Commerce Works, signed on 20 September 2011 by representatives of European libraries, authors, publishers and collective management organisations under the aegis of the Commission. Member States should have a certain margin of discretion to choose the specific type of arrangement in accordance *with* their legal traditions, practices or circumstances. Such mechanisms can include extended collective licensing, *legal mandates* and presumptions of representation.

Or. fr

Amendment 161
Julia Reda

Proposal for a directive
Recital 25 a (new)

Text proposed by the Commission

Amendment

(25 a) Further considering the variety of works and other subject-matter in the collections of cultural heritage institutions and the variance between collective management practices across Member States and sectors of cultural production it is necessary to provide a secondary mechanism that can complement these licensing mechanisms and can be apply in sectors of for types of works where the licensing mechanisms do not provide a solution for example because there is no practice of collective licensing or because collective management organisations are unable to achieve sufficient representation. It is therefore necessary to provide for an exception that allows cultural heritage

institutions to make out of commerce works held in their collection available online on their own platforms for non-commercial purposes. This uses under this exception must be subject to the same opt out and publicity requirements as uses authorised by a licensing mechanism.

Or. en

Amendment 162
Julia Reda

Proposal for a directive
Recital 25 b (new)

Text proposed by the Commission

Amendment

(25 b) In order to ensure that such an exception only applies in situations where licensing mechanisms are not available it is necessary to require member states to ensure that this exception does not apply in sectors or for types of works where where licensing mechanisms are available. Such determinations can best be made at by member states taking into account the specificities of national collective management organisations and the needs and requirements of cultural heritage institutions. Therefore the determination in which sectors or for which types of works licensing mechanisms are not available should be made by member states in consultation with rightholders, collective management institutions and cultural heritage institutions.

Or. en

Amendment 163
Julia Reda

Proposal for a directive
Recital 25 c (new)

(25 c) A number of member states already maintain extended collective licensing agreements between collecting societies and cultural heritage institutions whose working mechanisms should not be interfered with by clauses for the concept of dedicated terminals, which may provide legal uncertainty in light of the case law of the Court of Justice of the European Union.

Or. en

Amendment 164
Julia Reda

Proposal for a directive
Recital 25 d (new)

(25 d) In order to provide legal clarity for the legitimate use of extracts or quotations of copyright-protected works, it is necessary to acknowledge the position and role of user-generated content in the online environment.

Or. en

Amendment 165
Julia Reda

Proposal for a directive
Recital 27

(27) As mass digitisation projects can entail significant investments by cultural heritage institutions, any licences granted under the mechanisms provided for in this Directive should not prevent them from generating reasonable revenues in order to cover the costs of the licence and the

deleted

costs of digitising and disseminating the works and other subject-matter covered by the licence.

Or. en

Amendment 166

Julia Reda

Proposal for a directive

Recital 28

Text proposed by the Commission

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be *adequately* publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information available to the public for a *reasonable period* of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. It is therefore appropriate to rely on that Office to establish and manage the European portal making such information available.

Amendment

(28) Information regarding the future and ongoing use of out-of-commerce works and other subject-matter by cultural heritage institutions on the basis of the licensing mechanisms provided for in this Directive and the arrangements in place for all rightholders to exclude the application of licences to their works or other subject-matter should be *effectively* publicised. This is particularly important when uses take place across borders in the internal market. It is therefore appropriate to make provision for the creation of a single publicly accessible online portal for the Union to make such information *widely and explicitly* available to the public for a *at least 6 months* of time before the cross-border use takes place. Under Regulation (EU) No 386/2012 of the European Parliament and of the Council³³, the European Union Intellectual Property Office is entrusted with certain tasks and activities, financed by making use of its own budgetary measures, aiming at facilitating and supporting the activities of national authorities, the private sector and Union institutions in the fight against, including the prevention of, infringement of intellectual property rights. *The single online portal should provide authors and other rightholders with means to oppose the making available of their works and other subject matter.* It is therefore appropriate to rely on that Office to establish and manage the European portal

making such information available. ***and provide such functionality to rightsholders and cultural heritage institutions.***

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

³³ Regulation (EU) No 386/2012 of the European Parliament and of the Council of 19 April 2012 on entrusting the Office for Harmonization in the Internal Market (Trade Marks and Designs) with tasks related to the enforcement of intellectual property rights, including the assembling of public and private-sector representatives as a European Observatory on Infringements of Intellectual Property Rights (OJ L 129, 16.5.2012, p. 1–6).

Or. en

Amendment 167

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive

Recital 28 a (new)

Text proposed by the Commission

Amendment

(28 a) Following technological developments and evolving user behaviour, a significant phenomenon of cultural creation has emerged, which relies on users uploading or displaying content, in various forms, to online services. Such user-generated content may comprise extracts or quotations of protected works or other subject-matter, which may be altered, combined or transformed for different purposes by users. Such uses of extracts or quotations within user-generated content, for various purposes such as the illustration of an idea, review or entertainment, are now widespread online and, provided that the use of such extracts or quotations of protected works or other subject-matter is proportionate, do not cause significant economic harm to the rightholders concerned and may even advertise the

work used within the user-generated content.

Or. en

Amendment 168

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive

Recital 28 b (new)

Text proposed by the Commission

Amendment

(28 b) Despite some overlap with existing voluntary exceptions or limitations, such as the one for quotation and parody, the use of protected works or other subject-matter within user-generated content is nonetheless not properly covered by the existing list of exceptions or limitations, creating legal uncertainty for users. Particularly the voluntary nature of existing exceptions and limitations is significantly curtailing the development of user-generated content, which is typically disseminated in a borderless online environment. It is therefore necessary to provide a new mandatory specific exception to authorise the legitimate uses of extracts or quotations of protected works or other subject-matter within user-generated content.

Or. en

Amendment 169

Julia Reda

Proposal for a directive

Recital 29 a (new)

Text proposed by the Commission

Amendment

(29 a) The reproduction of cultural works, specifically their digitisation, will in the coming years be the most powerful tool not only for the preservation of our

cultural heritage but also for providing broad access to researchers, students and the general public. In contrast, access to culture would be jeopardised if these digitisations were copyrighted. Faithful reproductions of works that do not constitute a creative transformation should not be hampered by added barriers that could have a chilling effect on digitisation of cultural heritage.

Or. en

Amendment 170
Marcus Pretzell

Proposal for a directive
Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

deleted

Or. de

Amendment 171
Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive
Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

deleted

Or. en

Amendment 172
Daniel Dalton

Proposal for a directive
Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

deleted

Or. en

Amendment 173
Kaja Kallas, Dita Charanzová, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. ***In the absence of recognition of publishers of press publications as rightholders, licensing*** and enforcement in the digital environment is often complex and inefficient.

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. Licensing and enforcement in the digital environment is often complex and inefficient.

Or. en

Amendment 174

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive
Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications ***have invested heavily in digitalizing their content and yet*** are facing problems in licensing the online use of their publications and recouping their investments. ***Digital platforms such as new aggregators and search engines have developed their activities based on the investment by press publishers in the creation of content without contributing to its development. This poses a severe threat to the employment and fair remuneration of journalists and the***

future of media pluralism. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Or. en

Amendment 175

Pascal Arimont, Tom Vandenkendelaere

Proposal for a directive

Recital 31

Text proposed by the Commission

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. ***The growth of traditional media is challenged by some news aggregators and search engines that develop their activities by using press publishers content without contributing to its development and without ensuring fair remuneration of the creators.*** In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Or. en

Amendment 176

Morten Løkkegaard

Proposal for a directive

Recital 31

Text proposed by the Commission

Amendment

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

(31) A free and pluralist press is essential to ensure quality journalism and citizens' access to information. It provides a fundamental contribution to public debate and the proper functioning of a democratic society. In the transition from print to digital, publishers of press publications are facing problems in licensing the online use of their publications and recouping their investments. ***This is mainly as some news aggregators and search engines use press publisher's content without contracting licence agreements and without remunerating them fairly.*** In the absence of recognition of publishers of press publications as rightholders, licensing and enforcement in the digital environment is often complex and inefficient.

Or. en

Justification

Digitization has opened up access to protected content without remunerating properly those who invested in it. Press publishers should receive a fair remuneration in order to keep on investing in quality press content.

Amendment 177 Marcus Pretzell

Proposal for a directive Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Amendment

deleted

Amendment 178

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 32

Text proposed by the Commission

Amendment

(32) *The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.* **deleted**

Amendment 179

Daniel Dalton

Proposal for a directive

Recital 32

Text proposed by the Commission

Amendment

(32) *The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available* **deleted**

*to the public of press publications in
respect of digital uses.*

Or. en

Amendment 180

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 32

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses. *deleted*

Or. en

Amendment 181

Kaja Kallas, Dita Charanzová, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 32

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry.

guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Or. en

Amendment 182
Morten Løkkegaard

Proposal for a directive
Recital 32

Text proposed by the Commission

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of **print and** digital uses.

Or. en

Justification

As publishers invest in both print and digital forms of publications, their right should reflect this reality as it is already the case for other content producers under the current Directive 2001/29/EC.

Amendment 183
Marc Tarabella, Virginie Rozière, Hugues Bayet

Proposal for a directive
Recital 32

Text proposed by the Commission

Amendment

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses.

(32) The organisational and financial contribution of publishers in producing press publications needs to be recognised and further encouraged to ensure the sustainability of the publishing industry. It is therefore necessary to provide at Union level a harmonised legal protection for press publications in respect of digital uses. Such protection should be effectively guaranteed through the introduction, in Union law, of rights related to copyright for the reproduction and making available to the public of press publications in respect of digital uses *in digital uses*.

Or. en

Amendment 184
Marcus Pretzell

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Amendment

deleted

Or. de

Amendment 185

Daniel Dalton

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) *For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.* **deleted**

Or. en

Amendment 186

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) *For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special* **deleted**

interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.

Or. en

Justification

This new right has been proposed without proper evidence. The effectiveness of such a provision is also in question given the results of similar measures taken in Germany and Spain, in particular on smaller publishers. In addition, the German court ruling on the issue has concluded that the online use of press publications by for instance search engines provides a combination of value and money flows and non monetary benefits for all parties and thereby constitutes a win win situation.

Amendment 187

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 33

Text proposed by the Commission

Amendment

(33) *For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.* **deleted**

Amendment 188**Julia Reda, Michel Reimon, Max Andersson, Brando Benifei****Proposal for a directive****Recital 33***Text proposed by the Commission*

(33) For the purposes of this Directive, it is necessary to *define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.*

Amendment

(33) For the purposes of this Directive, it is necessary to *clarify the scope of protection provided by article 2 and 3 of Directive 2001/29/EC. In order to improve legal certainty for all concerned parties, and to ensure the freedom to carry out certain acts necessary for the normal functioning of the Internet as well as to take account of certain fundamental rights, these articles do not extend to acts of hyperlinking, which do not constitute communication to the public.*

Or. en

Amendment 189**Morten Løkkegaard****Proposal for a directive****Recital 33***Text proposed by the Commission*

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such

publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. ***Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do not constitute communication to the public.***

publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites.

Or. en

Justification

Scientific journals are part of the periodical press but in the proposal these are explicitly excluded despite the fact that they suffer as much from large scale commercial piracy as other publications. Including them will not impact a TDM exception and nor will this impact negatively open access policies. The definition of press publication could take into account identification numbers (i.e. ISSN) and metadata to ensure a coherent and comprehensive definition.

Amendment 190 **Morten Løkkegaard**

Proposal for a directive **Recital 33**

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should ***not*** be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of hyperlinking which do

not constitute communication to the public.

not constitute communication to the public.

Or. en

Amendment 191

Pascal Arimont, Tom Vandenkendelaere, Herbert Reul

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. ***This protection does not extend to acts of hyperlinking which do not constitute communication to the public.***

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. ***This protection should not extend to individual words or acts of hyperlinking, but should cover extracts from texts if the latter contain the key information which was to be conveyed by means of publication and thus do away with any incentive to click further to the source of the publication.*** Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive.

Or. de

Amendment 192

Antanas Guoga

Proposal for a directive

Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it
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Amendment

(33) For the purposes of this Directive, it
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is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of ***hyperlinking which do not constitute communication to the public.***

is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of ***a computation referencing or indexing system such as hyperlinking.***

Or. en

Amendment 193
Eva Maydell

Proposal for a directive
Recital 33

Text proposed by the Commission

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of ***hyperlinking which do not constitute communication to the public.***

Amendment

(33) For the purposes of this Directive, it is necessary to define the concept of press publication in a way that embraces only journalistic publications, published by a service provider, periodically or regularly updated in any media, for the purpose of informing or entertaining. Such publications would include, for instance, daily newspapers, weekly or monthly magazines of general or special interest and news websites. Periodical publications which are published for scientific or academic purposes, such as scientific journals, should not be covered by the protection granted to press publications under this Directive. This protection does not extend to acts of ***a computation referencing or indexing system such as hyperlinking.***

Amendment 194

Marcus Pretzell

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.* *deleted*

Or. de

Amendment 195

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such* *deleted*

as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 196

Eva Maydell

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.* **deleted**

Or. en

Amendment 197

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 34

Text proposed by the Commission

Amendment

(34) *The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those* **deleted**

applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 198
Antanas Guoga

Proposal for a directive
Recital 34

Text proposed by the Commission

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

deleted

Or. en

Amendment 199
Daniel Dalton

Proposal for a directive
Recital 34

Text proposed by the Commission

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital

deleted

uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 200

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive Recital 34

Text proposed by the Commission

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, insofar as digital uses are concerned. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. *deleted*

Or. en

Justification

This new right has been proposed without proper evidence. The effectiveness of such a provision is also in question given the results of similar measures taken in Germany and Spain, in particular on smaller publishers. In addition, the German court ruling on the issue has concluded that the online use of press publications by for instance search engines provides a combination of value and money flows and non monetary benefits for all parties and thereby constitutes a win win situation.

Amendment 201

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned. They*** should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***and as the rental and lending right and the distribution right provided for in Directive 2006/115/EC. As there is no part of a press publication that does not have an economic value, also the use of short extracts of automatically generated content by news aggregators or search engines may constitute a reproduction and making available as interferes with the publisher's investment in the content. The rights*** should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 202

Morten Løkkegaard

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned. They*** should also be subject to the same provisions on exceptions and

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC. ***Short extracts of press publications may constitute a reproduction as they reflect an economic***

limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

value and owe their fixation to the protected subject matter, i.e. the economic, organisational and editorial efforts of the press publisher necessary for such fixation and therefore interfere with the publisher's entrepreneurial efforts. The rights should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive. The protection granted to press publications under this Directive should also apply where the content is automatically generated by news aggregators or search engines.

Or. en

Justification

Every excerpt (partial or total) of press content reflects the investment made by press publishers and should be fully protected accordingly. This applies without prejudice to the Hyperlink exception, specifically excluded from the scope of the Press publisher's right as laid out in recital 33 of the Commission proposal. As publishers invest in both print and digital forms of publications, their right should reflect this reality.

Amendment 203

Pascal Arimont, Tom Vandenkendelaere, Herbert Reul

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC ***and the rights of rental, lending and distribution provided for in Directive 2006/115/EC***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the

down in Article 5(3)(d) of that Directive.

exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. de

Amendment 204

Morten Løkkegaard, Jasenko Selimovic

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***insofar as digital uses are concerned***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Amendment

(34) The rights granted to the publishers of press publications under this Directive should have the same scope as the rights of reproduction and making available to the public provided for in Directive 2001/29/EC, ***and as the rights of rental and lending right, and distribution right provided for in Directive 2006/115/EC***. They should also be subject to the same provisions on exceptions and limitations as those applicable to the rights provided for in Directive 2001/29/EC including the exception on quotation for purposes such as criticism or review laid down in Article 5(3)(d) of that Directive.

Or. en

Amendment 205

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) ***The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other***

Amendment

deleted

rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Or. en

Amendment 206

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 35

Text proposed by the Commission

Amendment

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

deleted

Or. en

Amendment 207

Proposal for a directive
Recital 35

Text proposed by the Commission

Amendment

(35) *The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.* **deleted**

Or. en

Justification

This new right has been proposed without proper evidence. The effectiveness of such a provision is also in question given the results of similar measures taken in Germany and Spain, in particular on smaller publishers. In addition, the German court ruling on the issue has concluded that the online use of press publications by for instance search engines provides a combination of value and money flows and non monetary benefits for all parties and thereby constitutes a win win situation.

Amendment 208
Daniel Dalton

Proposal for a directive
Recital 35

Text proposed by the Commission

Amendment

(35) *The protection granted to publishers of press publications under this* **deleted**

Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Or. en

Amendment 209

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive

Recital 35

Text proposed by the Commission

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.

Amendment

(35) The protection granted to publishers of press publications under this Directive should not affect the rights of the authors and other rightholders in the works and other subject-matter incorporated therein, including as regards the extent to which authors and other rightholders can exploit their works or other subject-matter independently from the press publication in which they are incorporated. Therefore, publishers of press publications should not be able to invoke the protection granted to them against authors and other rightholders. This is without prejudice to contractual arrangements concluded between the publishers of press publications, on the one side, and authors and other rightholders, on the other side.
Member States should ensure that a fair share of remuneration derived from uses of the press publishers' rights is attributed

to journalists.

Or. en

Amendment 210

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 36

Text proposed by the Commission

Amendment

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should be allowed to determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place. *deleted*

Or. en

Amendment 211

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Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 36

Text proposed by the Commission

Amendment

(36) *Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should be allowed to determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.* **deleted**

Or. en

Amendment 212

Pascal Arimont, Tom Vandenkendelaere, Herbert Reul

Proposal for a directive

Recital 36

Text proposed by the Commission

Amendment

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should **be allowed to** determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

(36) Publishers, including those of press publications, books or scientific publications, often operate on the basis of the transfer of authors' rights by means of contractual agreements or statutory provisions. In this context, publishers make an investment with a view to the exploitation of the works contained in their publications and may in some instances be deprived of revenues where such works are used under exceptions or limitations such as the ones for private copying and reprography. In a number of Member States compensation for uses under those exceptions is shared between authors and publishers. In order to take account of this situation and improve legal certainty for all concerned parties, Member States should determine that, when an author has transferred or licensed his rights to a publisher or otherwise contributes with his works to a publication and there are systems in place to compensate for the harm caused by an exception or limitation, publishers are entitled to claim a share of such compensation, whereas the burden on the publisher to substantiate his claim should not exceed what is required under the system in place.

Or. de

Amendment 213 Morten Løkkegaard

Proposal for a directive Recital 37

Text proposed by the Commission

(37) Over the ***last*** years, ***the functioning of the online content marketplace has gained in complexity***. Online services providing access to ***copyright protected*** content uploaded by their users without the involvement of ***right holders*** have flourished and have become ***main*** sources of access to content online. ***This affects rightholders' possibilities to determine***

Amendment

(37) Over the years, online services providing access to content uploaded by their users without the involvement of ***rightholders*** have flourished and have become ***important*** sources of access to content online, ***allowing for diversity and ease of access to content but also generating challenges when copyright protected content is uploaded without***

whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

prior authorisation from rightholders.

Or. en

Amendment 214

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) Over the *last* years, *the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders* have flourished and have become *main* sources of access to content online. *This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.*

Amendment

(37) Over the years, online services *enabling users to upload works and to make them accessible to the public* have flourished and have become *important* sources of access to content online *and of creativity. At the same time, when protected content is uploaded without prior authorisation from rightholders, they have generated challenges.*

Or. en

Justification

There is a need to acknowledge the new form of creativity that has flourished with the development of user-generated platforms and to clarify that for such platforms, the user has the responsibility over what he or she uploads, and is provided means through this platform to make his or her work available to the public

Amendment 215

Antanas Guoga

Proposal for a directive

Recital 37

Text proposed by the Commission

(37) *Over* the last years, *the functioning*

Amendment

(37) *Especially* over the last years,

*of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become **main** sources of access to content online. **This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.***

online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become **important** sources of **easy** access to content online, **but also causing challenges when copyright protected content is uploaded without prior authorization from right holders.**

Or. en

Amendment 216

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive Recital 37

Text proposed by the Commission

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become **main** sources of access to content online. **This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.**

Amendment

(37) Over the last years, the functioning of the online content marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become **important** sources of access to content online **allowing for diversity and ease of access to content but also generating challenges when copyright protected content is uploaded without prior authorisation from rightholders.**

Or. en

Amendment 217

Pina Picierno

Proposal for a directive Recital 37

Text proposed by the Commission

Amendment

(37) Over the last years, the functioning of *the online content* marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used as well as their possibilities to get an appropriate remuneration for it.

(37) *Evolution of digital technologies has led to the emergence of new business models and reinforced the role of the Internet as the main marketplace for the distribution of and access to copyright-protected content.* Over the last years, the functioning of *this* marketplace has gained in complexity. Online services providing access to copyright protected content uploaded by their users without the involvement of right holders have flourished and have become main sources of access to content online. This affects rightholders' possibilities to determine whether, and under which conditions, their work and other subject-matter are used, as well as their possibilities to get an appropriate remuneration for it.
The creative sector contributes significantly both economically and culturally to the strength of the Union, and the importance of the sector has long been recognised by European Union legislation including Directive 2001/29/EC, which aims to guarantee a framework wherein the exploitation of works and other protected subject-matter can take place. Difficulties faced by rightholders when seeking to license their rights to certain online services and be remunerated for the online distribution of their works and subject matter risks undermining that aim. To uphold a high level of protection that enables the creative sectors to continue to contribute culturally and economically to the Union it is necessary to ensure that legal certainty is provided both for rightholders and users of protected works and subject-matter and that rightholders are able to negotiate copyright licenses with user – uploaded content services that distribute their content.

Or. en

Amendment 218

Sergio Gutiérrez Prieto, José Blanco López

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) These user uploaded content services have attracted users and derived economic value from providing access to protected works and other subject matter, often including its optimization of presentation, organisation and promotion. In doing so, these services directly compete with licensed content providers for the same users and revenues. However, such user uploaded content services either refuse to enter into licensing agreement or underpay the creators for the works on which they rely by erroneously claiming to be covered by the safe harbour exemptions of Directive 2000/31/EC. This transfer of value prevents authors, creators, performers and right holders from receiving a fair remuneration for their works, undermines the efficiency of the online market, distorts competition and drives down the overall value of cultural content online.

Or. en

Amendment 219
Antonio López-Istúriz White

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37a) User-uploaded content services attract users and create economic value by giving access to works and other protected subject-matter and also, in many cases, optimising their presentation, organisation, and promotion. In so doing, these services are competing directly with licensed content providers for the same users and profits. Unlike licensed content providers, however, user-uploaded content services pay very little remuneration, or

none at all, to creators for the works on which they base their business models, employing the safe harbour provisions set out in Directive 2000/31/EC of the European Parliament and of the Council.

Or. es

Amendment 220

Pascal Arimont, Herbert Reul, Andreas Schwab

Proposal for a directive

Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) Today more creative content is being consumed than ever before. That happens on services such as user-uploaded content platforms and content aggregation services. At the same time, the creative sectors have not seen a comparable increase in revenues from this increase in consumption. One of the main reasons is being referred to as a transfer of value that has emerged due to the lack of clarity regarding the status of these online services under copyright and e-commerce law. An unfair market has been created, threatening the development of the Digital Single Market and its main players: the creative industries.

Or. en

Amendment 221

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive

Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) User uploaded content services attract users and derive economic value from providing access to protected works and other subject matter, often including

its optimization of presentation, organisation and promotion. In doing so, they directly compete with licensed content providers for the same users and revenues. However, unlike licensed services, such user uploaded content services either do not pay or underpay the creators for the works on which they rely by wrongfully claiming safe harbour provisions of the Directive 2000/31/EC.

Or. en

Amendment 222
Morten Løkkegaard

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) User uploaded content services attract users and derive economic value from providing access to protected works and other subject matter, often including its optimization of presentation, organisation and promotion. In doing so, they directly compete with licensed content providers for the same users and revenues. However, unlike licensed services, such user uploaded content services either do not pay or underpay the creators for the works on which they rely by wrongfully claiming safe harbour provisions of the Directive 2000/31/EC.

Or. en

Amendment 223
Róza Gräfin von Thun und Hohenstein

Proposal for a directive
Recital 37 a (new)

Text proposed by the Commission

Amendment

(37 a) The provisions of this Directive

should be without prejudice to the liability regime of information society service providers as provided in the e-commerce directive 2000/31/EC. The Commission should rather analyse whether the liability regimes set in the e-commerce Directive 17 years ago are still fit for purpose then to introduce new provisions, related to copyrights only, in this Directive. Until proper assessment and review is performed by the Commission, matters affecting the liability of information society service providers should not be introduced under the copyright framework.

Or. en

Amendment 224

Pascal Arimont, Herbert Reul, Andreas Schwab

Proposal for a directive

Recital 37 b (new)

Text proposed by the Commission

Amendment

(37 b) Digital platforms are means of providing wider access to cultural and creative works and offer great opportunities for cultural and creative industries to develop new business models. Therefore, consideration is to be made of how this process can function with more legal certainty and respect for right holders. It is therefore of utmost importance to ensure transparency and a fair level playing field. The protection of right holders within the copyright and intellectual property framework is necessary in order to ensure recognition of values and stimulation of innovation, creativity, investment and production of content.

Or. en

Amendment 225

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115/169

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EN

Proposal for a directive

Recital 37 b (new)

Text proposed by the Commission

Amendment

(37 b) This transfer of value undermines the efficiency of the online market, distorts competition and drives down the overall value of cultural content online. It also limits consumer choice for new and innovative legitimate services in the European Digital Single Market and risks cultural and creative industries that create significant jobs and growth for EU economy as underlined by the European Parliament resolution of 13 December 2016 on a coherent EU policy for cultural and creative industries (2016/2072(INI)).

Or. en

Amendment 226

Morten Løkkegaard

Proposal for a directive

Recital 37 b (new)

Text proposed by the Commission

Amendment

(37 b) This transfer of value undermines the efficiency of the online market, distorts competition and drives down the overall value of cultural content online. It also limits consumer choice for new and innovative legitimate services in the European Digital Single Market and risks cultural and creative industries that create significant jobs and growth for EU economy as underlined by the European Parliament resolution of 13 December 2016 on a coherent EU policy for cultural and creative industries (2016/2072(INI)).

Or. en

Amendment 227
Antonio López-Istúriz White

Proposal for a directive
Recital 37 b (new)

Text proposed by the Commission

Amendment

(37b) This transfer of value is undermining the effectiveness of the online market, thus jeopardising the cultural and creative industry, which does a great deal to generate growth and jobs, as was pointed out in the European Parliament Resolution of 13 December 2016 on a coherent EU policy for cultural and creative industries (2016/2072(INI)).

Or. es

Amendment 228
Róza Gräfin von Thun und Hohenstein

Proposal for a directive
Recital 38

Text proposed by the Commission

Amendment

(38) Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

deleted

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 229
Josef Weidenholzer

Proposal for a directive
Recital 38

Text proposed by the Commission

Amendment

(38) Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

deleted

In respect of Article 14, it is necessary to

verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

³⁴ *Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).*

Or. en

Amendment 230

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, *thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude*

Amendment

Where information society service providers *which* store and provide access to the public to copyright protected works or other subject-matter uploaded by their users *conduct licencing agreements with rightsholders on a voluntary basis, the users' fundamental rights to privacy, freedom of expression and freedom of*

licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

information are often not sufficiently taken into account and their ability to assert their right of use under an exception or limitation is often unjustly curtailed by the measures put in place as part of those licensing agreements. In order to correct this situation and provide legal certainty to users who are exercising their right of use under an exception or limitation that exists under national law in the country in which the use is made, a legal framework governing those licensing agreements is necessary. In order to protect fundamental rights and improve legal certainty for all concerned parties in light of the case law of the Court of Justice of the European Union, it is necessary that any agreements on measures between rightholders and information society service providers do not impose a general obligation on information society service providers to monitor the information which they transmit or store, nor a general obligation actively to seek facts or circumstances indicating illegal activity.

³⁴ *Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).*

Or. en

Amendment 231

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers *store and provide access to the public to copyright protected works or*

PE602.819v01-00

Amendment

Where *an* information society service *is provided that consists of the storage of information provided by a recipient of the*

120/169

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other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

service and providers of the service enable users to upload works in such a way as to make them available to the public and obtains knowledge after receiving notification by the rightholders that the work is used in an unauthorised manner and subject to copyright and related rights, they are obliged to take that content down in order to be eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. However, it is in the interests of all parties involved that the content remain online. Therefore, the possibility of concluding a licensing agreement between rightholders and the service providers on fair and reasonable terms for that purpose should be enabled. In order to ensure that notifications of works subject to copyright and related rights are valid, rightholders should provide service providers with an accurate identification of both the protected works and the uploaded content deemed to be unauthorised, including its exact location. To prevent misuses or abuses of notifications, and protect freedom of information and expression and the limitations and exceptions to copyright law, users should have access to redress and complaint mechanisms.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Justification

There is an increasing pressure on intermediaries providing users the possibility to upload works, to filter content with the use of technologies, although recognised by the Court as infringing user's fundamental rights. In addition, current practices show a large amount of authorised content taken down due to the absence of due process within the existing notice and take down regime, which should therefore be clarified in the interests of users, rightholders and intermediaries.

Amendment 232

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

deleted

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 233

Eva Maydell

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to

Without prejudice to Article 14 of Directive 2000/31/EC³⁴, information society service providers that make available to the public copyright works or other subject-matter uploaded by their users, should conclude agreements with rightholders. Such agreements, should be

the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

fair and reasonable.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 234

Antonio López-Istúriz White

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and *provide access to* the public *to copyright protected* works or other subject-matter uploaded by their users, *thereby going* beyond the mere provision of physical facilities and *performing an* act of communication to the public, *they* are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

Amendment

Information society service providers *which* store and *give* the public *access to copyrighted* works or other subject-matter uploaded by their users *go* beyond the mere provision of physical facilities and *to that extent are involved in the* act of communication to the public *brought about by their users when they upload such protected works and other subject-matter. Those service providers* are obliged to conclude licensing agreements with rightholders *concerning the rights of communication to the public and of reproduction*, unless they are eligible for the liability exemption provided *for* in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. *To afford legal certainty to individual users, licenses granted to the above service providers should cover liability for relevant user actions, provided that users are not acting in a professional capacity.*

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. es

Amendment 235

Marc Tarabella, Virginie Rozière, Hugues Bayet

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store **and** provide access to the public to copyright protected works or other subject-matter uploaded by their users, **thereby going** beyond the mere provision of physical facilities and **performing an** act of communication to the public, **they are** obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Information society service providers **that** store **or** provide access to the public to copyright protected works or other subject-matter uploaded by their users, **go** beyond the mere provision of physical facilities and **intervene in the** act of communication to the public **initiated by their users uploading such works and other subject matter. These service providers are thus** obliged to conclude licensing agreements with rightholders **both for the communication to the public and reproduction rights in which they play an indispensable role**, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. **In order to provide legal certainty for the users, the authorization granted to these service providers shall cover the liability of their user for the relevant copyright acts, provided the latter are not acting on a professional basis.**

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment 236**Sergio Gutiérrez Prieto, José Blanco López****Proposal for a directive****Recital 38 – paragraph 1***Text proposed by the Commission*

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Information society service providers **that** store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public **initiated by their users uploading such works and other subject-matter**, they are obliged to conclude licensing agreements with rightholders **both for the communication to the public and reproduction rights in which they play an indispensable role**, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment 237**Pascal Arimont, Herbert Reul, Andreas Schwab****Proposal for a directive****Recital 38 – paragraph 1***Text proposed by the Commission*

Where information society service

Amendment

Where information society service

providers ***store and provide access to the public to*** copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities ***and performing an act of communication to the public***, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

providers ***broadcast*** copyright protected works or other subject-matter uploaded by their users ***and/or make them accessible to the public***, thereby going beyond the mere provision of physical facilities, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. de

Amendment 238

Vicky Ford

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers ***store and*** provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***thereby going beyond the mere provision of physical facilities and performing an act of communication to the public***, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of

Amendment

Where information society service providers ***act in an active manner and knowingly*** provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***they should endeavour*** to conclude licensing agreements with rightholders ***and should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies or notice and takedown or other means***.

information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 239

Inese Vaidere

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, *thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders*, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, *they are obliged to conclude fair and balanced licensing agreements with rightholders in order to ensure fair and appropriate remuneration*, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 240

Philippe Juvin

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service

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Amendment

Where information society service

127/169

PE602.819v01-00

EN

providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***physical facilities and*** performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of ***installations and thus*** performing an act of communication to the public ***and/or making available to the public, as well as an act of reproduction***, they are obliged to conclude licensing agreements with rightholders ***who so request***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. fr

Amendment 241

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive **Recital 38 – paragraph 1**

Text proposed by the Commission

Where information society service providers ***store and provide access*** to the public ***to*** copyright protected ***works or other subject-matter*** uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European
PE602.819v01-00

Amendment

Where information society service providers ***are actively involved in the making available, promoting and curating*** to the public copyright protected ***digital content*** uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European

Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 242
Morten Løkkegaard

Proposal for a directive
Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, **thereby going** beyond the mere provision of physical facilities and **performing an** act of communication to the public, **they are** obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Amendment

Information society service providers **that** store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, **go** beyond the mere provision of physical facilities and **intervene in the** act of communication to the public **initiated by their users uploading such works and other subject matter. These service providers are thus** obliged to conclude licensing agreements with rightholders **both for the communication to the public and reproduction rights in which they play an indispensable role**, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴. **In order to provide legal certainty for the users, the authorisation granted to these service providers shall cover the liability of their users for the relevant copyright acts, provided the latter are not acting on a professional basis.**

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Justification

This provision, together with its 2nd paragraph explained below, are absolutely crucial in providing a real and meaningful solution to the transfer of value problem. UUC services undertake acts of communication to the public through their intervention in the communication to the public initiated by uploaders.

It is necessary to clarify the wording so that the safe harbour non-liability does not apply to the services that play an active role in making the works and other subject matter available to the public. Such services that play an active role should not be covered by Directive 2000/31/EC for copyright purposes and they should be subject to the rules of Directive 2001/29/EC as any digital content service provider.

In order to make sure that consumers can continue uploading their works with legal certainty, it should be stated that the license received by the platform also covers the act of the uploader/consumer which is not acting on a professional basis.

Finally, the provision refers to two acts that are “storing” and “giving access” that correspond to two copyright relevant acts, “reproduction right” and “communication to the public right” respectively. Therefore, both acts should be mentioned, since both of them need to be licensed if the service plays an active role.

Amendment 243

Antanas Guoga

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal
PE602.819v01-00

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, ***they should conclude licensing agreements with rightholders in order to ensure fair remuneration***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal

Or. en

Amendment 244

Maria Grapini

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

Amendment

Where information society service providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude ***fair and equitable*** licensing agreements with rightholders, ***ensuring them suitable remuneration in line with the number of downloads***, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. ro

Amendment 245

Pina Picierno

Proposal for a directive

Recital 38 – paragraph 1

Text proposed by the Commission

Where information society service

Amendment

Where information society service

providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication to the public, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

providers store and provide access to the public to copyright protected works or other subject-matter uploaded by their users, thereby going beyond the mere provision of physical facilities and performing an act of communication ***or making available*** to the public, ***as the case may be***, they are obliged to conclude licensing agreements with rightholders, unless they are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC of the European Parliament and of the Council³⁴.

³⁴ Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (OJ L 178, 17.7.2000, p. 1–16).

Or. en

Amendment 246 **Vicky Ford**

Proposal for a directive **Recital 38 – paragraph 2**

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Amendment

deleted

Or. en

Amendment 247 **Antanas Guoga**

Proposal for a directive **Recital 38 – paragraph 2**

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Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Or. en

Amendment 248

Eva Maydell

**Proposal for a directive
Recital 38 – paragraph 2**

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Or. en

Amendment 249

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

**Proposal for a directive
Recital 38 – paragraph 2**

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Amendment 250

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

**Proposal for a directive
Recital 38 – paragraph 2**

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

deleted

Or. en

Justification

There is no need to attempt to clarify the meaning of active intermediary with specific platforms in mind given the diversity of user-generated platforms. The Ecommerce directive already defines the scope of limited liability for intermediaries under recital 42 on the basis of the knowledge or control over the information which is transmitted or stored, which should therefore be assessed on a case by case basis

Amendment 251

Philippe Juvin

**Proposal for a directive
Recital 38 – paragraph 2**

Text proposed by the Commission

Amendment

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the **uploaded works or subject-matter** or promoting **them**, irrespective of the nature of the means used therefor.

In the interests of ensuring legal certainty for users of services, these agreements should cover the liability of the latter when they are not acting professionally for acts falling under Articles 2 and 3 of Directive 2001/29/EC that they perform.
In respect of **this** Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the **content provided by the service** or promoting **that content**,

irrespective of the nature of the means used therefor.

Or. fr

Amendment 252
Morten Løkkegaard

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider *plays an* active role, *including by optimising* the presentation of the uploaded works or subject-matter or *promoting them*, irrespective of the nature of the means used therefor.

Amendment

In respect of *the application of* Article 14 *of the Directive 2000/31/EC*, it is necessary to verify whether the *role played by the* service provider *is of an active nature*. An active role *includes, inter alia, optimisation for the purpose of* the presentation *by the service* of the uploaded works or subject-matter or *their promotion by the service*, irrespective of the nature of the means used therefor. *The service providers that play such an active role are ineligible for the liability exemption of such Article 14.*

Or. en

Amendment 253
Marc Tarabella, Virginie Rozière, Hugues Bayet

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider *plays* an active role, *including by optimising* the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Amendment

In respect of *the application of* Article 14 *of the Directive 2000/31/EC*, it is necessary to verify whether the *role played by the* service provider *is of* an active role *that includes, inter alia, optimization for the purpose of* the presentation *by the service* of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor. *The service providers that play such an active*

role are ineligible for the liability exemption of such Article 14.

Or. en

Amendment 254
Daniel Dalton

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider *plays* an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Amendment

In respect of Article 14, it is necessary to verify whether the service provider *has played* an active role *with knowledge of the copyright protected work in question*,, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Or. en

Amendment 255
Sergio Gutiérrez Prieto, José Blanco López

Proposal for a directive
Recital 38 – paragraph 2

Text proposed by the Commission

In respect of Article 14, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor.

Amendment

In respect of Article 14 *of the Directive 2000/31/EC*, it is necessary to verify whether the service provider plays an active role, including by optimising the presentation of the uploaded works or subject-matter or promoting them, irrespective of the nature of the means used therefor. *The service providers playing such an active role are ineligible for the liability exemption of such Article 14.*

Or. en

Amendment 256

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

deleted

Or. en

Amendment 257

Vicky Ford

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

*Where information society service providers **act in an active manner they should endeavour to conclude licensing agreements with rightholders and** should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies **or notice and takedown or other means**. This obligation **shall not** apply when the **service provider does not have actual knowledge of copyright protection of the works or is not aware of facts or circumstances from which the copyright protection is arising; or where the provider, upon obtaining***

such knowledge or awareness, acts expeditiously to remove or to disable access to the information.

Or. en

Justification

Taken from Article 14 of the E-Commerce Directive.

Amendment 258

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

deleted

Or. en

Justification

There is an increasing pressure on intermediaries providing users the possibility to upload works, to filter content with the use of technologies, although recognised by the Court as infringing user's fundamental rights. In addition, current practices show a large amount of authorised content taken down due to the absence of due process within the existing notice and take down regime, which should therefore be clarified in the interests of users, rightholders and intermediaries.

Amendment 259

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers ***storing and providing access*** to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, ***such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.***

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers ***actively involved in the making available*** to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ***their value and size to*** ensure protection of works or other subject-matter, ***in accordance with technological developments.***

Or. en

Amendment 260
Antanas Guoga

Proposal for a directive
Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to ***the public to large amounts of*** copyright protected works or other subject-matter uploaded by their users should take ***appropriate and proportionate*** measures to ensure protection of works or other subject-matter, ***such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.***

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to copyright protected works or other subject-matter uploaded by their users should take ***reasonable and appropriate*** measures to ensure protection of works or other subject-matter.

Or. en

Amendment 261

Pascal Arimont, Herbert Reul, Andreas Schwab

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers **storing and** providing access to the public to **large amounts of** copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers **broadcasting and/or** providing access to the public to copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Or. de

Amendment 262

Sergio Gutiérrez Prieto, José Blanco López

Proposal for a directive

Recital 38 – paragraph 3

Text proposed by the Commission

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment 263**Pina Picierno****Proposal for a directive****Recital 38 – paragraph 3***Text proposed by the Commission*

In order to ensure the functioning of any licensing agreement, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Amendment

In order to ensure the functioning of any licensing agreement ***or to prevent the availability on their services of content not covered by such agreements***, information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter, such as implementing effective technologies ***consistent with prevailing technologies and industry best practices, and provided such technology exists***. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.

Or. en

Amendment 264**Eva Maydell****Proposal for a directive****Recital 38 – paragraph 3***Text proposed by the Commission*

In order to ensure the functioning of any licensing agreement, information society service providers ***storing and providing access to the public to large amounts of copyright protected*** works or other ***subject-matter*** uploaded by their users should take

Amendment

In order to ensure the functioning of any licensing agreement, information society service providers ***that are not covered by Article 14 of Directive 2000/31/EC and that make available to the public copyright*** works or other ***subject matter***

appropriate and proportionate measures to ensure protection of works or other subject-matter, *such as implementing effective technologies. This obligation should also apply when the information society service providers are eligible for the liability exemption provided in Article 14 of Directive 2000/31/EC.*

uploaded by their users should take appropriate and proportionate measures to ensure protection of works or other subject-matter.

Or. en

Amendment 265
Antanas Guoga

Proposal for a directive
Recital 38 a (new)

Text proposed by the Commission

Amendment

(38 a) For the implementation of such measures, rightholders should provide service providers with accurately identified works or subject matter over which they consider to have rights in copyright. Rightholders retain responsibility for claims made by third parties over the use of works which they would have identified as being their own in the implementation of any agreement reached with the service provider.

Or. en

Amendment 266
Pina Picierno

Proposal for a directive
Recital 38 a (new)

Text proposed by the Commission

Amendment

(38 a) Large amounts of copyright protected works or other subject-matter should be understood as meaning large amounts of works or subject-matter within the same category or categories. Category shall be interpreted broadly, and shall

include categories such as music, broadcasts, films, or computer games. Consequently, the obligations in Article 13 shall apply to information society service providers only in relation to the categories of works and other subject-matter that the service stores and provides access to in large amounts, and not to other categories.

Or. en

Amendment 267

Eva Maydell

Proposal for a directive

Recital 38 a (new)

Text proposed by the Commission

Amendment

(38 a) For the implementation of such measures, rightholders should provide service providers with accurately identified works or subject-matter over which they consider to have rights in copyright. Rightholders should retain responsibility for claims made by third parties over the use of works which they identify as being their own in the implementation of any agreement reached with the service provider

Or. en

Amendment 268

Róza Gräfin von Thun und Hohenstein

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by

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their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 269

Jiří Maštálka, Kostadinka Kuneva

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of

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rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 270

Julia Reda, Michel Reimon, Max Andersson, Brando Benifei

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

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Or. en

Amendment 271

Josef Weidenholzer

Proposal for a directive

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Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

deleted

Or. en

Amendment 272

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley, Cora van Nieuwenhuizen

Proposal for a directive

Recital 39

Text proposed by the Commission

Amendment

(39) Collaboration between information society service providers *storing and providing access to the public to large amounts of copyright protected* works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the

(39) Collaboration between information society service providers *and rightholders is essential to facilitate the accurate identification of unauthorised* works online. Appropriate safeguards should however be put in place where they agree on the introduction of voluntary measures to ensure that these do not infringe the fundamental rights of users, namely their

necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

right to protection of their personal data and their freedom to receive or impart information, in accordance with Articles 8 and 11 of the Charter of Fundamental rights of the European Union in particular their rights to the use of works made in accordance with an exception or limitation to copyright.

Or. en

Justification

There is an increasing pressure on intermediaries providing users the possibility to upload works, to filter content with the use of technologies, although recognised by the Court as infringing user's fundamental rights. In addition, current practices show a large amount of authorised content taken down due to the absence of due process within the existing notice and take down regime, which should therefore be clarified in the interests of users, rightholders and intermediaries.

Amendment 273

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers ***storing and providing access*** to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their

Amendment

(39) Collaboration between information society service providers ***actively involved in the making available of copyright protected works*** to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies,

appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. en

Amendment 274
Antanas Guoga

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to ***the public to large amounts of*** copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the ***functioning of technologies, such as content recognition technologies. In such cases***, rightholders should provide the necessary data to allow the services to identify their content ***and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide*** rightholders with information on the ***type of technologies*** used, the way they are operated and their success rate for the recognition of rightholders' content. ***Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.***

Amendment

(39) Collaboration between information society service providers storing and providing access to copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the ***implementation of reasonable and appropriate measures. Therefore***, rightholders should provide the necessary data to allow the services to identify their content ***to which they have rights in copyright and*** the services should ***be transparent towards*** rightholders ***and provide them*** with information on the ***measures*** used, the way they are operated and their success rate for the recognition of rightholders' content.

Or. en

Amendment 275

Sergio Gutiérrez Prieto, José Blanco López

Proposal for a directive

Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement. ***Those technologies should not require the identity of uploaders, thus not posing any risk for privacy of individual end users. On the contrary, those technologies should involve a highly targeted technical cooperation of rightholders and information society service providers based on data provided by rightholders in order to prevent the availability of specifically identified and duly notified works or other subject-matter, therefore being fully compatible with Article 15 of Directive 2000/31/EC and the European Charter of Fundamental Rights.***

Or. en

Amendment 276
Philippe Juvin

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to the public to **large** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to **significant** amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Or. fr

Amendment 277
Pascal Arimont, Herbert Reul, Andreas Schwab

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to the public to **large amounts of** copyright protected works or

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to copyright protected works or other subject-matter

other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

uploaded by their users and rightholders is essential for the functioning of technologies, such as content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement. ***For some start-ups, defined here as microenterprises and small enterprises^{1a} which have been in existence for less than 10 years, the use of content-recognition technologies of this kind would probably constitute an insurmountable financial obstacle, for which reason enterprises of this kind should be released from the requirement to employ such technologies.***

1a

Or. de

Amendment 278
Vicky Ford

Proposal for a directive
Recital 39

Text proposed by the Commission

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as

Amendment

(39) Collaboration between information society service providers storing and providing access to the public to large amounts of copyright protected works or other subject-matter uploaded by their users and rightholders is essential for the functioning of technologies, such as

content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

content recognition technologies. In such cases, rightholders should provide the necessary data to allow the services to identify their content and the services should be transparent towards rightholders with regard to the deployed technologies, to allow the assessment of their appropriateness. The services should in particular provide rightholders with information on the type of technologies used, the way they are operated and their success rate for the recognition of rightholders' content. Those technologies should also allow rightholders to get information from the information society service providers on the use of their content covered by an agreement.

Alternative methods tackling infringing content such as notice and takedown should also be available to be used and can be effective in addressing infringing content.

Or. en

Amendment 279
Antonio López-Istúriz White

Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39a) The use of technical means is essential for the operation of online licensing and the management of rights. The technical means employed by current technology do not entail any need to access the identity of individual users who upload content, and hence they pose no risk to the privacy of individual end users. Furthermore, they are derived from highly specific technical cooperation between rightholders and information society service providers based on data supplied by rightholders and do not, therefore, entail any general monitoring or fact-finding obligation as regards content. It follows that the provisions set

out in Article 13 of this Directive are fully compatible with Article 15 of Directive 2000/31/EC and with the Charter of Fundamental Rights of the European Union.

Or. es

Amendment 280

Marc Tarabella, Virginie Rozière, Hugues Bayet

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) Use of technical measures are essential for the functioning of online licensing and rights management purposes. Such technical measures used in modern technology therefore do not require the identity of uploaders and hence do not pose any risk for privacy of individual end users. Furthermore, those technical measures involve a highly targeted technical cooperation of rightholders and information society service providers based on the data provided by rightholders, and therefore do not lead to general obligation to monitor and find facts about the content. The provision of Article 13 therefore is fully compatible with Article 15 of Directive 2000/31/EC and the European Charter of Fundamental Rights.

Or. en

Amendment 281

Pina Picierno

Proposal for a directive

Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) In cases when the measures and

technologies deployed in accordance with this Directive affect the upload of content covered by an exception or authorization granted, it is necessary to require service providers to set up complaints and redress mechanisms for the benefit of users whose content has been affected by the measures. Such mechanisms must strike an appropriate balance between the need to ensure that content covered by exceptions to copyright or authorisations is not unduly affected by the measures, and the need to ensure that complaints and redress mechanisms do not unreasonably prejudice the effectiveness of the measures.

To achieve that aim, complaints and redress mechanisms should prescribe minimum standards for complaints to ensure right holders are provided with adequate information to assess and respond to complaints.

Properly functioning complaints and redress mechanisms should provide rightholders with an adequate period to respond to complaints, taking into account the number of complaints being processed by the recipient rightholder at the time of the complaint.

Or. en

Amendment 282
Philippe Juvin

Proposal for a directive
Recital 39 a (new)

Text proposed by the Commission

Amendment

(39 a) In view of the requirements imposed by this directive regarding contracts and cooperation between information society service providers and rightholders, it is necessary to provide for an intermediate procedure which will permit the parties to seek an amicable solution to any dispute

concerning the relevant provisions of this directive. Member States should support such a mechanism by designating an impartial body with relevant experience and competence to assist the parties in the resolution of their dispute.

Or. fr

Amendment 283

Philippe Juvin

Proposal for a directive

Recital 39 b (new)

Text proposed by the Commission

Amendment

(39 b) It should be recalled that, both in general and in the light of the references to Article 3 of Directive 2001/29/EC made in this directive, a work and/or other subject-matter is communicated to the public and/or made available to the public when a natural or legal person affords access to it to persons outside their normal family circle or most immediate associates. For this purpose it makes no difference that the latter can gain access to the works and/or other subject-matter at the same place or in different places and at the same time or at different times.

Or. fr

Amendment 284

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

Proposal for a directive

Recital 40

Text proposed by the Commission

Amendment

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders

grant a licence or a transfer of rights in return for remuneration. As authors and performers *tend to be* in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their contractual counterparts *or* their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

grant a licence or a transfer of rights in return for remuneration. As authors and performers *are* in a weaker contractual position when they grant licences or transfer their rights, they need *accurate* information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their contractual counterparts *and subsequent transferees or licences, as well as* their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

The reporting and transparency obligation should follow the work across all form of exploitation and across borders.

Or. en

Amendment 285

Antanas Guoga

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers *tend to be* in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of *adequate* information by their contractual counterparts or their successors in title is important for the transparency and balance

Amendment

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers *are* in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of information by their contractual counterparts or their successors in title is important for the transparency and balance in the system that

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governs the remuneration of authors and performers.

Or. en

Amendment 286

Julia Reda

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers tend to be in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of *adequate* information by their contractual counterparts or their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

Amendment

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers tend to be in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the *regular* sharing of information by their contractual counterparts or their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

Or. en

Amendment 287

Pina Picierno

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which

Amendment

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which

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Or. en

Amendment 288

Daniel Dalton

Proposal for a directive

Recital 40

Text proposed by the Commission

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers tend to be in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their contractual counterparts or their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

Amendment

(40) Certain rightholders such as authors and performers need information to assess the economic value of their rights which are harmonised under Union law. This is especially the case where such rightholders grant a licence or a transfer of rights in return for remuneration. As authors and performers tend to be in a weaker contractual position when they grant licences or transfer their rights, they need information to assess the continued economic value of their rights, compared to the remuneration received for their licence or transfer, but they often face a lack of transparency. Therefore, the sharing of adequate information by their *direct* contractual counterparts or their successors in title is important for the transparency and balance in the system that governs the remuneration of authors and performers.

Amendment 289**Julia Reda****Proposal for a directive****Recital 41***Text proposed by the Commission*

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. *The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.*

Amendment

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for.

Or. en

Amendment 290**Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès****Proposal for a directive****Recital 41***Text proposed by the Commission*

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific

Amendment

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific

requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

requirements *and standard reporting statements and procedures*. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under *Directive 2014/26/EU, on the condition that Member States have transposed Directive 2014/26/EU and taken all necessary measures to ensure that the management of all collective management organisations is carried out in a sound, prudent and appropriate manner. Member States should also ensure that collective management organisations act in the best interest of the right holders whose rights they represent and regularly, diligently and accurately distribute and pay amounts due to rightholders and make public an annual transparency report, in full compliance with Directive 2014/26/EU.*

Or. en

Amendment 291

Pina Picierno

Proposal for a directive

Recital 41

Text proposed by the Commission

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an

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Amendment

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector, *as well as the as well as the significance of the contribution by authors and performers authors and performers to the overall work or performance* should be considered. Member States should consult

160/169

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agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

Or. en

Amendment 292
Maria Grapini

Proposal for a directive
Recital 41

Text proposed by the Commission

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

Amendment

(41) When implementing transparency obligations, the specificities of different content sectors and of the rights of the authors and performers in each sector, ***as well as the percentage of the contribution by authors to the final work*** should be considered. Member States should consult all relevant stakeholders as that should help determine sector-specific requirements. Collective bargaining should be considered as an option to reach an agreement between the relevant stakeholders regarding transparency. To enable the adaptation of current reporting practices to the transparency obligations, a transitional period should be provided for. The transparency obligations do not need to apply to agreements concluded with collective management organisations as those are already subject to transparency obligations under Directive 2014/26/EU.

Or. ro

Amendment 293

Philippe Juvin

Proposal for a directive

Recital 41 a (new)

Text proposed by the Commission

Amendment

(41 a) Authors and performers very often receive no remuneration when their works or interpretations are exploited, especially through online services, and do not have the legal tools to enable them to receive such remuneration. This situation is particularly evident in the audiovisual sector and the bargaining power of the authors and performers of audiovisual works is significantly weakened as a result. Therefore, without prejudice to the law applicable to contracts in the Member States, a principle of fair remuneration should be put in place which is tailored to each mode of exploitation. Member States should be allowed great flexibility so that they can implement this remuneration in accordance with their legal traditions and national practices.

Or. fr

Amendment 294

Marc Tarabella, Virginie Rozière, Hugues Bayet, Pervenche Berès

Proposal for a directive

Recital 41 a (new)

Text proposed by the Commission

Amendment

(41 a) Authors and performers should be able to enter into fair and balanced remuneration contracts, regardless of their sector.

Or. en

Amendment 295

Antanas Guoga

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) ***Certain*** contracts for the exploitation of rights harmonised at Union level are ***of long*** duration, offering ***few*** possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, there should be a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. ***The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors.*** Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Amendment

(42) ***Most*** contracts for the exploitation of rights harmonised at Union level are ***for the entire*** duration ***of copyright***, offering ***no*** possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, there should be a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. ***Collective bargaining should be considered as an option to reach an agreement.*** Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Or. en

Amendment 296

Pina Picierno

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, ***offering few possibilities for*** authors and performers to

Amendment

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, ***and*** authors and performers ***may not always be able*** to

renegotiate them with their contractual counterparts or their successors in title. Therefore, *without prejudice to the law applicable to contracts in Member States, there should be* a remuneration adjustment mechanism *for* cases where the remuneration *originally* agreed under a licence or a transfer of rights *is disproportionately low* compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer *should* be entitled to bring a claim before a court or other competent authority.

renegotiate them with their contractual counterparts or their successors in title. Therefore, *if, under the applicable law or practice in Member States, authors and performers are not able to seek the modification or annulment of* contracts *for the exploitation of rights*, Member States *shall provide for* a remuneration adjustment mechanism *in appropriate* cases where the remuneration agreed under a licence or a transfer of rights *has become strikingly disproportionate* compared to the relevant *unanticipated net* revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. *When assessing the disproportionality, the appropriate circumstances of each case, including the nature and significance of the contribution of the author or performer to the overall work or performance, should be taken into account.* Where the parties do not agree on the adjustment of the remuneration, the author or performer *may* be entitled to bring a claim before a court or other competent authority.

Or. en

Amendment 297

Maria Grapini

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title.

PE602.819v01-00

Amendment

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title.

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Therefore, *without prejudice to* the law applicable *to contracts* in Member States, *there should be* a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Therefore, *where* the law applicable in Member States *does not allow authors and performers to request cancellation or modification of the copyright assignment agreement*, *Member States should provide for* a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Or. ro

Amendment 298

Daniel Dalton, Anneleen Van Bossuyt

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, *there should be* a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant revenues and the benefits derived from the exploitation of the work or the fixation of the performance, including in

Amendment

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, *Member States may decide to introduce* a remuneration adjustment mechanism for cases *of unexpected success* where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant *net* revenues and the benefits derived from the exploitation of the work

light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Or. en

Amendment 299

Virginie Rozière, Marc Tarabella, Sylvie Guillaume, Pervenche Berès

Proposal for a directive

Recital 42

Text proposed by the Commission

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, there should be a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant *revenues and the benefits* derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Amendment

(42) Certain contracts for the exploitation of rights harmonised at Union level are of long duration, offering few possibilities for authors and performers to renegotiate them with their contractual counterparts or their successors in title. Therefore, without prejudice to the law applicable to contracts in Member States, there should be a remuneration adjustment mechanism for cases where the remuneration originally agreed under a licence or a transfer of rights is disproportionately low compared to the relevant *direct and indirect revenues* derived from the exploitation of the work or the fixation of the performance, including in light of the transparency ensured by this Directive. The assessment of the situation should take account of the specific circumstances of each case as well as of the specificities and practices of the different content sectors. Where the parties do not agree on the adjustment of the remuneration, the author or performer should be entitled to bring a claim before a court or other competent authority.

Amendment 300

Antanas Guoga

Proposal for a directive

Recital 43

Text proposed by the Commission

(43) Authors and performers are often **reluctant** to enforce their rights against their contractual partners before a court or tribunal. Member States should therefore provide for an alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism.

Amendment

(43) Authors and performers are often **unable** to enforce their rights against their contractual partners before a court or tribunal. Member States should therefore provide for an alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism. ***The dispute settlement resolution can also be agreed upon in collective agreements.***

Or. en

Amendment 301

Daniel Dalton

Proposal for a directive

Recital 43

Text proposed by the Commission

(43) Authors and performers are often reluctant to enforce their rights against their contractual partners before a court or tribunal. Member States should therefore provide for an alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism.

Amendment

(43) Authors and performers are often reluctant to enforce their rights against their contractual partners before a court or tribunal. Member States should therefore provide for an **efficient** alternative dispute resolution procedure that addresses claims related to obligations of transparency and the contract adjustment mechanism.

Or. en

Amendment 302

Kaja Kallas, Dita Charanzová, Marietje Schaake, Fredrick Federley

Proposal for a directive
Recital 43 a (new)

Text proposed by the Commission

Amendment

(43 a) There is in many cases a lack of information and availability of data regarding the holders of copyright and related rights, which prevents potential users of works to obtain a license to use or reproduce that work and directly remunerate the author or creator of that work. A centralised database should therefore be established to enable an easier identification of works subject to copyright and related rights, decrease complexity and costs in authors and performers's rights administration and to facilitate the remuneration and payment of licenses to artists and performers for their work.

Or. en

Justification

The attempt to develop a Global repertoire Database has been described as a failure despite the large support and agreement that such a system is needed. Such a project should therefore be relaunched to facilitate the distribution of protected works and the remuneration of authors and performers.

Amendment 303
Marcus Pretzell

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. *This Directive lays down rules which aim at further harmonising the Union law applicable to copyright and related rights in the framework of the internal market, taking into account in particular digital and cross-border uses of protected content. It also lays down rules on exceptions and limitations, on the facilitation of licences as well as rules aiming at ensuring a well-functioning*

1. *Harmonisation of Union law applicable to copyright and related rights by means of a directive should be rejected. Harmonisation of this kind will come about automatically when the interplay of free market forces with the various national systems of laws gives rise to a body of European private law for the digital single market. Harmony cannot be created by means of a legislative act, in*

*marketplace for the exploitation of works
and other subject-matter.*

*particular if a significant proportion of
the provisions of that legislative act
concern ancillary copyright, whose
ineffectiveness has only just been
demonstrated at national level.*

Or. de